

## NOTICES OF HEARINGS

## SELECT COMMITTEE ON INDIAN AFFAIRS

● Mr. ANDREWS. Mr. President, I should like to announce for the information of the Senate and the public the scheduling of a field hearing on S. 1735, a bill entitled the "Shoalwater Bay Indian Tribe-Dexter by the Sea Claim Settlement Act." The hearing is scheduled on August 30, 1983, commencing at 9 a.m., in the city council chambers, 3d floor of city hall, 200 East Market Street, Aberdeen, Wash. Those wishing to testify or submit written testimony should contact John Caves of the Select Committee on Indian Affairs at 202/224-2251.●

## SUBCOMMITTEE ON THE FAMILY FARM

● Mr. WEICKER. Mr. President, the Senate Small Business Committee's Subcommittee on the Family Farm has announced a change in its scheduled field hearing as originally announced in the CONGRESSIONAL RECORD of August 4. The hearing on "The Effect of Canadian Imports on New York State Agriculture," originally scheduled for August 19, will now be held on September 9, 1983, at 10 a.m. in Syracuse, N.Y., room to be announced at a later date. For further information, please contact John McNamara of the committee staff at 224-2809. Senator D'AMATO will chair.●

SUBCOMMITTEE ON EXPORT PROMOTION AND  
MARKET DEVELOPMENT

● Mr. WEICKER. Mr. President, the Senate Small Business Committee's Subcommittee on Export Promotion and Market Development has announced a change in its scheduled field hearing as originally announced in the CONGRESSIONAL RECORD of August 4, 1983. The hearing on Small Business Exports and Export Financing, originally scheduled for September 9, will now be held on September 12, 1983, in the hearing chambers of the Metropolitan Council, 300 Metro Square Building, St. Paul, Minn., starting at 9:30 a.m. For further information, please contact Anne Sullivan of the committee staff at 224-5175. Senator BOSCHWITZ will chair.●

COMMITTEE ON ENERGY AND NATURAL  
RESOURCES

● Mr. MCCLURE. Mr. President, I would like to announce, for the information of the Senate and the public, the scheduling of a public hearing before the Committee on Energy and Natural Resources to receive testimony on S. 1701, to impose specific directives on the Bonneville Power Administration. This will be a followup hear-

ing to the August 3, 1983, hearing held in Washington, D.C.

The hearing will be held on Friday, September 9, beginning at 9 a.m. in the New Federal Building (south auditorium, 4th floor), 915 Second Avenue, Seattle, Wash.

Those wishing to testify or who wish to submit written statements for the hearing record should contact Mr. Gary Ellsworth, Senate Committee on Energy and Natural Resources, Washington, D.C. 20510, Telephone: 202-224-5304; Mr. Ron Dotzauer, office of Senator HENRY M. JACKSON, 802 U.S. Courthouse, 1010 Fifth Avenue, Seattle, Wash. 98104, telephone: 206-442-7476; or Ms. Creigh Agnew, office of Senator SLADE GORTON, 2988 Federal Building, 915 Second Avenue, Seattle, Wash. 98174, telephone: 206-442-5545. Requests to testify should be received no later than 5 p.m. on Wednesday, August 31. Witnesses should deliver 25 copies of their testimony to Senator GORTON's Seattle office by 5 p.m. on Thursday, September 8. Witnesses may be placed in panels and oral testimony will be limited to no more than 5 minutes.

For further information regarding this hearing, please contact Mr. Ellsworth, Mr. Dotzauer, or Ms. Agnew at the above-listed numbers.●

## ADDITIONAL STATEMENTS

REORGANIZATION OF  
DEPARTMENT OF EDUCATION

● Mr. SARBANES. Mr. President, I am pleased to be a cosponsor of Senate Concurrent Resolution 60, which expresses the sense of the Senate that the current organizational integrity and personnel strengths of the Department of Education should be retained and directs the General Accounting Office to undertake a study to determine whether this reorganization would reduce the ability of the Department of Education to carry out programs authorized by the Congress. Those programs which may be affected include the Women's Educational Equity Act program, title IV, the Civil Rights Act program, migrant education programs, Native American programs, chapter I—compensatory education—programs and vocational, adult, and the all handicapped children programs.

In my view, this proposed reorganization is actually a substantial reduc-

tion in force aimed at downgrading many of the valuable employees of the Department of Education and thereby severely weakening programs which the Congress has consistently supported. Each of these programs provides important educational opportunities for groups within our society that have historically been at an educational disadvantage. I am deeply troubled that this reorganization effort will inevitably result in the inability of our educational system to meet its mandate of providing an equal opportunity for a high-quality education for all of our citizens.

It may surprise many of my colleagues to discover that the Department of Education has reduced its personnel strength by 25 percent since this administration has been in office. While I favor improving the efficient management of the Federal Government, I am disturbed that this proposal is in fact a thinly disguised attempt by the Reagan administration to administratively cripple the management of programs it opposes. Furthermore, I am concerned that yet another reorganization will only serve to undermine the morale and credibility of these important programs.

The programs, which would be affected by this proposed reorganization, improve educational services to our Nation's handicapped children, Native Americans, migrant children, and disadvantaged children, who often need special services to achieve their educational goals. Important efforts to meet the needs of women, and those who experience discrimination based on race or national origin would be severely impacted by this proposal. In this time of high unemployment, services to those who wish to go back to school for additional education or vocational training will be impaired by increasing workloads and decreasing the staff who implement adult and vocational education programs.

We must continue to place strong emphasis on the education of our Nation's children and all of our citizens who wish to become better equipped to work in our fast-changing society. I call upon the Secretary of Education to withdraw the proposal for the reduction in force and reorganization until we can be assured that our Nation's commitment to a quality education for all our citizens is not adversely affected by yet another reorganization at the Department of Education. I urge my colleagues to join me in supporting this worthy measure.●

## SENATOR ERVIN AND THE ERA

● Mr. HATCH. Mr. President, our former colleague, Senator Sam Ervin, remains one of the most thoughtful constitutional observers in our Nation. He has recently prepared an outstanding analysis on the proposed equal rights amendment, examining what he describes as its "revolutionary" implications. In this analysis, Senator Ervin concludes that the amendment would result in an unprecedented transfer of public authority from the States to the Federal Government and from the legislative branches to the judicial branches. In both cases, the result would be governmental decisionmaking more removed from the citizenry and less accountable to them. I call Senator Ervin's entire analysis to the attention of my colleagues and request that it be printed in the RECORD in its entirety.

## The material follows:

THE EQUAL RIGHTS AMENDMENT: ITS  
REVOLUTIONARY IMPLICATIONS

(Observations of former Senator Sam Ervin, of North Carolina, on this subject, June 1983)

SEXUAL DIFFERENCES AND RESULTANT CUSTOMS  
AND LAWS

While they are otherwise alike, there are fundamental physiological and functional differences between men and women.

These differences are of supreme importance. They empower men to beget children, and women to bear them; and thus perpetuate the existence of humanity on earth.

These differences have produced customs in living, and these customs have been implemented by laws.

Children are God's most helpless creatures. They require years of physical, intellectual, and spiritual nurture to fit them for life as adults.

To insure that children receive such nurture, customs and laws have created the institution of marriage, and assigned differing legal responsibilities to men and women who marry in respect to themselves, their spouses, and the children they create.

In assigning these differing legal responsibilities to them, the customs and laws have taken into consideration these things: (1) the circumstance that the husband's role in the creative process is temporary and non-disabling, whereas the wife's role is protracted, arduous, and at least temporarily disabling; and (2) the characteristics and capacities which generally distinguish husbands and wives from each other.

Consequently the customs and laws assign to husbands and fathers the legal responsibility to provide shelter, food, and other necessities of life for themselves, their spouses, and their children, and to wives and mothers the legal responsibility to make the shelter a home for themselves, their spouses, and their children, and to supply their children the essential nurture their infancy and early childhood require.

The faithful performance of their respective legal responsibilities by married men and women is vital to the development and advancement of the human race.

In addition to assigning these differing legal responsibilities to married men and women in respect to their marital affairs and relationships, the customs and laws exempt women from compulsory military

service; impose on men the duty to defend the country when it is engaged in war with its enemies; and secure to widows a portion of their husbands' estates for their support after the deaths of their husbands.

Under American jurisprudence, women may marry or refrain from marrying. Except to the extent it exempts all women from compulsory military service, the customs and laws do not apply to women who do not marry. Millions of women, however, deem marriage an acceptable way of life, and marry, become wives and mothers and widows. The customs and the law implementing them afford substantial economic and legal protections to them and their children.

Until comparatively recent times, men monopolized most remunerative employments in the nation, and few occupations were open to women. As the years passed, however, the United States witnessed many changes affecting both men and women in their economic and social lives. Multitudes of women entered the work force. Many of them are married women, who have abandoned homemaking either totally or partially for outside economic activities, and are contributing their earnings to the support of themselves and their families. Some of these married women manage to make homes for their families and also perform their outside economic undertakings. Some of them postpone accepting any outside employment until their children are rather mature.

One group of Americans maintain that the economic and social changes have outmoded the customs and laws and made them unnecessary; that the retention of these customs and laws are both insulting and injurious to all women because they deny them equality of legal rights with men and consign them to a status in society inferior to that of men; and that they should be supplanted in their entirety by new laws phrased in neuter terms and applying equally and uniformly and without variation to all men and women in all circumstances. This group includes many business and professional women whose legal rights are identical with those of men.

A second group of Americans, whom I believe to be right and to express views held by the vast majority of our people, reject these propositions on the ground that they are repugnant to reason and to the realities of human life in America.

They assert that the customs and laws recognizing that sex does exist and that it creates physiological and functional differences between men and women do not exalt or debase either sex. On the contrary, they simply recognize the truth that men and women complement each other in the activities essential to the existence and development of human life on earth.

They also insist that the roles in life of man and unmarried women and those of wives, mothers, widows, and immature children are drastically different and that it is idle thinking to assume that laws which suffice to protect men and unmarried women will offer adequate protection to wives, mothers widows, and children. They also maintain that although the economic and social changes may minimize the need for the customs and laws in some instances, the conditions which originally brought them into being still exist throughout the nation, and that it would be folly to abolish them. To sustain this position, they say that multitudes of women still devote all their energy and time to homemaking and the

care of their families; that even most of the women who have accepted outside employment devote a substantial part of their efforts to homemaking and the care of their families; that the need of children to receive the benefits of physical, intellectual, and spiritual culture from both of their parents is undiminished; and that the majority of widows are disabled by age, illness, or inexperience to earn their own livelihoods.

## THE EQUAL RIGHTS AMENDMENT

The first group of Americans demand that Congress and the State adopt the Equal Rights Amendment. This Amendment reads as follows:

Section 1. Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.

Section 2. The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.

Section 3. This amendment shall take effect two years after the date of ratification.

Language uses words to express and communicate ideas. As a consequence, America's greatest jurist of all time, Chief Justice John Marshall, rightly ruled in the famous case of *Marbury v. Madison*,<sup>1</sup> that the words of the Constitution must be interpreted to mean what they say.

Hence, both the Constitution and intellectual honesty compel us to determine the meaning and effect of the Equal Rights Amendment by its words. These words are as clear as sunlight in a cloudless sky.

The determinative words are set forth in its most crucial section, Section 1, which apply without exception or limitation to the United States, the fifty States, and all men and women and boys and girls in them.

Although these determinative words state it in the negative, the Equal Rights Amendment has an affirmative meaning and effect.

If it should be added to the Constitution, the Amendment will impose on Congress and the fifty States absolute and inescapable constitutional obligations to make equal and uniform without any variation their respective laws relating to men and women and boys and girls, without regard to the physiological and functional differences between the sexes and without regard to the absurd impact those laws will have on men, women, or children in particular instances.

By so doing, the Amendment would require Congress and the fifty States to ignore the existence of sex in making laws to govern the conduct and relationships of those whom God has divided into two sexes, and to recreate men and women in a constitutional and legal sense as a new unisex of the neuter gender.

To accomplish this wondrous objective, the Amendment would rob Congress and the fifty States of the constitutional power to make any legal right or liability dependent on sex.

Discriminations may be made by law, or by nature, or by the mores of society. The Equal Rights Amendment is concerned with "equality of rights under law", and would not abolish any discrimination created against women by nature or the mores of society.

Some people really believe that God perpetrated an unjust discrimination on women when He placed on them the burden of

<sup>1</sup> *Marbury v. Madison*, (1803) 1 Cranch 137, 2 L.Ed.60.



bearing children and nurturing them in their infancy. If this be so, it is an unjust discrimination which the Equal Rights Amendment will not and cannot abolish. After all, the decrees of the Almighty cannot be nullified by human beings.

#### WHAT THE EQUAL RIGHTS AMENDMENT WILL DO

As used in the Equal Rights Amendment, the words "equality of rights under the law" have a beguiling appeal and a deceitful power. Their beguiling appeal deters many persons from analyzing the Amendment and ascertaining what it says; and their deceitful power induces many others to believe that such a beautifully phrased Amendment cannot possibly mean what it says. Others are deluded into believing that the Amendment does nothing other than to proclaim an ideal which government is to seek to attain in future years.

For their own good and that of posterity, Americans must not be deluded by the beguiling appeal or the deceitful power of the siren words "equality of rights under the law," or by any misinterpretations of the Equal Rights Amendment.

If Congress should submit the Amendment to the States and the States should ratify it, the Amendment will operate as an inexorable command of the Constitution itself, and nullify every prior constitutional provision inconsistent with it, and invalidate all existing and future laws, federal and state, based on the reality that there are psychological and functional differences between the two sexes which God created to perpetuate human life on earth.

That is exactly what the Amendment would do if it is added to the Constitution.

This conclusion is mandated by the absolute words of the Amendment itself, and conforms to what is most knowledgeable advocates, Professor Thomas I. Emerson, of the Yale Law School, and Barbara A. Brown, Galk Falk, and Ann E. Freeman, able lawyers educated in the Yale Law School, say it will do. I quote their words as they appear in an article appearing in *Yale Law Journal* for April, 1971. They say:

1. The basic principle of the Equal Rights Amendment is that sex is not a permissible factor in determining the legal rights of women or men. This means that the treatment of any person by the law may not be based upon the circumstance that such person is of one sex or the other. (p. 889) . . . The principle of the Amendment must be applied comprehensively and without exceptions. (p. 890.)

2. Only an unequivocal ban against taking sex into account supplies a rule adequate to achieve the objectives of the Amendment. (p. 892) . . . Prohibition against the use of sex as a basis for differential treatment applies to all areas of legal rights. (p. 891) . . . From this analysis it follows that the constitutional mandate must be absolute. (p. 892.)

3. Our legal structure will continue to support and command an inferior status for women so long as it permits any differentiation in legal treatment on the basis of sex. (p. 893) . . . Equality of rights means that sex is not a factor. (p. 892.)

If it is added to the Constitution, the Amendment will nullify all existing federal and state laws making legal distinctions between men and women, no matter how necessary and sensible such distinctions may be, and rob Congress and the 50 States of the constitutional power to enact any similar laws at any time in the future.

I cite below only a few of the things the Amendment will do:

The Amendment will nullify all laws of the United States or any State which exempt women from compulsory military service or from service in combat units of the armed forces in time of war.

The Amendment will nullify all laws of the United States or any State which grant exemptions or economic or social protections or benefits to women because they are wives, mothers, or widows.

The Amendment will nullify all laws of the United States or any State which impose on husbands and fathers primary responsibility for providing a home, food, or other necessities of life for their wives and children.

The Amendment will nullify all laws of the United States or any State which require husbands to pay alimony to their wives or former wives.

The Amendment will nullify all laws of the United States or any State which protect the privacy of men and women and boys and girls by requiring separate restrooms for the sexes in public and private schools, in public buildings or in mercantile establishments, and industrial plants.

The Amendment will nullify all laws of the United States or any State which permit segregation by sex in educational institutions or hospitals, or require segregation by sex in jails or prisons.

The Amendment will nullify all laws of the United States or any State which base the right to marry on the sex of the contracting parties, and deny the right to marry each other to female lesbians or male homosexuals.

The Amendment will nullify all laws of the United States or any State which define as crimes sexual offenses, such as forcible or statutory rape, which can be committed only by men.

Although it is absolute in its terms and is subject to no exception or limitation, whatever, some advocates of the Amendment say it will not strike down as unconstitutional laws making forcible or statutory rape crimes. They say this is so because these crimes are not based on sex, but are based on the unique physical characteristics which distinguish men and women from each other. Since these distinguishing physical characteristics divide men and women into two sexes, forcible and statutory rapes cannot possibly be exempt from the coverage of an amendment which outlaws all laws based on sex.

The partial recital of its inescapable consequences makes it manifest that the adoption of the Equal Rights Amendment would create constitutional and legal chaos in America. It would leave the nation without valid laws adequate to regulate the actions and relationships of men and women and the responsibilities they owe to the helpless children they create.

The Amendment recognizes this to be so by Section 2, which extends its effective date for two years to allow Congress and the States time to enact new laws to supplant those it nullifies. Fidelity to truth compels me to observe that the only new laws the Amendment would permit Congress and the States to enact would not suffice to give the country sensible government. Under the Amendment, they would have to ignore earth's most potent reality, that is, that sex creates physiological and functional differences between the two sexes, and undertake to regulate the inevitable consequences of the truth they are commanded to ignore by laws phrased in genderless language which does not denote the sex of any person to whom they apply.

Subject to the exceptions noted below, I will not indicate the nature of the new laws Congress and the States would be compelled to enact to supplant the customs and laws the Amendment would nullify.

Their nature is suggested with accuracy by the article in the *Yale Law Journal* for April, 1971. I urge all members of Congress and State Legislatures and all Americans who love our country to read and ponder what this article says on that subject.

The most militant organization of women supporting the Equal Rights Amendment, NOW, is revealing to the nation in advance the absurd and unrealistic nature of the laws which the Amendment will command Congress and the States to enact if it is adopted.

NOW is doing this by calling on Congress to pass two pending bills, S. 372 and H.R. 100. These bills command insurance companies to ignore sex in setting rates on health insurance, and to require men and women to pay identical premiums for such insurance.

To comply with NOW's demand, Congress must ignore the economic truths that insurance is based on risk and that women under 55 years of age usually incur more health care expenses than men, and compel men to purchase for themselves personal maternity benefits God disables them to use.

If adopted, the Equal Rights Amendment would imperil our national security in a precarious world where potential foes indicate their ambition to extinguish all lights of liberty on earth and subject all mankind to their domination.

As the article in the *Yale Law Journal* clearly discloses, the United States would be compelled to choose between having no armed forces whatever, or having armed forces in which men and women would serve on exactly the same terms and precisely the same conditions. There could be no segregation by sex in barracks or on ships, or in training activities, or in combat.

In this connection, the article makes these two emphatic affirmations:

1. Distinctions between single and married women who become pregnant will be permissible only if the same distinction is drawn between single and married men who father children. (No. 14, p. 975)

2. Thus, if unmarried women are discharged for pregnancy, men shown to be fathers of children born out of wedlock would also be discharged. (No. 15, p. 975)

What has been said reveals that the constitutional scholar, Bernard Schwartz, was right in saying:

"Use of the law in an attempt to conjure away all the differences which do exist between the sexes is both an insult to the law and a complete disregard of fact." (*Rights of the Person*, Vol. 2, p. 538.)

#### THE EQUAL RIGHTS AMENDMENT IS UNNECESSARY

To the extent that the roles they enact in life are the same, the legal rights and the legal responsibilities of men and women should be the same. This is already true under most existing federal and state laws, and any discrepancies which may still exist do not require the drastic Equal Rights Amendment for their elimination. They can be removed by simple legislative acts.

Law ought not to make any invidious or unjust discriminations against women.

In its final analysis, the argument its advocates advance for its adoption is that the Equal Rights Amendment is necessary to abolish legal discriminations of this nature. If this be its real objective, the Equal Rights

Amendment is totally unnecessary for three separate reasons.

The first of these reasons is that the Constitution now outlaws all invidious or unjust legal discriminations against women.

To be sure, the Supreme Court originally placed some absurd interpretations on the equal protection clause of the Fourteenth Amendment during the years following its addition to the Constitution. For example, it incorrectly adjudged that Illinois and Virginia were not disabled by the equal protection clause to deny qualified women the right to practice law. These and all kindred decisions are now as dead as the dodo.

Ever since it handed down *Reed v. Reed*<sup>2</sup> in 1971, the Supreme Court has consistently and rightly ruled that the due process clause of the Fifth Amendment, which applies to the United States, and the equal protection clause of the Fourteenth Amendment, which applies to the states, make every law, federal or state, that makes a distinction between the legal rights and legal responsibilities of men and women, null and void unless the distinction is based on reasonable grounds and is intended to protect women in some role they enact in life. Hence, the Equal Rights Amendment is not required to abolish any invidious or unjust discriminations against women.

The second reason why the Equal Rights Amendment is not required for this purpose is this: Virtually every law which in times past made invidious or unjust discriminations against women has been repealed or adjudged unconstitutional, and has been supplanted by new laws prohibiting discriminations of this nature.

As the United States Code discloses, Congress has enacted statutes during recent years prohibiting invidious or unjust legal discriminations against women in virtually every federal activity, and the like prohibition has been extended by statute or regulation to every state activity financed, in whole or in part, by federal funds.

There are few state activities which are not in this category, and virtually all of them are covered by state laws prohibiting invidious or unjust discriminations against women.

The third reason why the Equal Rights Amendment is not necessary to abolish invidious or unjust discrimination against women is this: Congress and the states possess plenary power under the existing Constitution to abolish such discriminations as may still exist.

Using a disastrous blunderbuss like the Equal Rights Amendment for this purpose would be as foolish as using an atomic bomb to get rid of a few mice. Legislators would be glad to abolish any remaining invidious or unjust legal discriminations against women if the advocates of the amendment would simply designate them.

I know of no invidious or unjust discriminations against women of substance other than those arising in employment, where some of them do not enjoy the pay, the promotion, and the other conditions of employment to which they are justly entitled.

But this is not the fault of law. As a matter of reality, existing laws prohibit virtually all of such discriminations. The Civil Rights Act of 1964 prohibits discrimination against women in employment in industries employing 15 or more persons if its business affects interstate commerce, except in those instances where sex is a bona fide occupa-

tional qualification reasonably necessary to the normal operation of the enterprise. Hence, the Civil Rights Act of 1964 applies to every industry of consequence in the United States.

The Fair Labor Standards Act and the Equal Pay Act, which apply to every employer who has a single employee whose activity affects interstate commerce, command employers not to discriminate against women and to pay men and women equal pay for equal work.

Furthermore, the President and virtually all the departments and agencies of the federal government have issued orders prohibiting discriminating against women in federal employment. Moreover, state legislatures have adopted many enlightened statutes in recent years prohibiting discrimination against women in employment.

In the nature of things, the laws prohibiting discrimination against women in employment are not self-executing, and must be invoked in judicial proceedings by those who deem themselves aggrieved by their violations.

What has been said makes it manifest that Congress and the states have virtually abolished all laws making invidious or unjust discrimination against women, and that the claim that the Equal Rights Amendment is necessary to nullify any remaining laws of this nature is destitute of foundation.

This truth is not pleasing, however, to the most militant supporters of the Equal Rights Amendment. They are not really concerned with legal discriminations of this nature. Their objective is revolutionary in nature. Stated simply, it is to destroy all existing legal distinctions between men and women; and to rob Congress and the states of the constitutional power to make any legal distinctions between men and women in the future.

#### THE EQUAL RIGHTS AMENDMENT IS REPUGNANT TO THE REALITIES OF LIFE

The Equal Rights Amendment is repugnant to the realities of life. What has already been said reveals why this is so, and may be epitomized for brevity's sake a second time as follows:

God created two sexes, and made physiological and functional differences between them. These differences enable men and women to perpetuate human life on earth. Fortright customs and laws are indispensable to these realities, and to the development of the children resulting from them. The Equal Rights Amendment undertakes to deny or defy these realities of life, and to regulate their consequences by absurd and unrealistic new laws phrased in genderless language which does not denote that they apply to the two sexes God created.

#### THE EQUAL RIGHTS AMENDMENT IS DESTRUCTIVE OF THE SYSTEM OF GOVERNMENT THE CONSTITUTION WAS ORDAINED TO ESTABLISH

The Constitution is the wisest instrument of government the earth has ever known. This is so, in large part, because it embodies in a two-fold way in its provisions this aphorism of the British philosopher, Thomas Hobbes:

"Freedom is political power divided into small fragments."

The Constitution divides the powers of government between the United States and the States by assigning to the United States all powers necessary to enable it to act as a national government for all the States, and by reserving to the States all other powers. Among the chief powers reserved to the

States is the power to regulate the actions and relationships of the people residing within their respective borders.

Furthermore, the Constitution minimizes the threat of tyranny arising out of centralization of powers by separating the powers allotted to the United States among the Congress, the President, and the federal judiciary.

The reservation by the Constitution to the States of the power to regulate the actions and relationships of the people within their borders promotes good government and preserves liberty. No centralized government far removed from the people can be as sensitive or responsive to their needs as the government close to them.

In addition to vesting in the states and denying to Congress the power to define the legal rights and responsibilities of men and women residing within their respective borders, the Constitution empowers the courts of the States to determine the validity of their laws on this subject, except in the comparatively rare instances when they violate some of its specific provisions.

Section 2 of the Equal Rights Amendment specifies that "Congress shall have the power to enforce, by appropriate legislation, the provisions of this article."

If adopted, the Equal Rights Amendment would transfer from the fifty states to the centralized national government in Washington the power to regulate all the rights and responsibilities of men and women and their obligations to the children they create throughout the United States.

The judicial power of the states to determine the validity of their laws on the subject would shift immediately on its effective date from the state courts to the Supreme Court and the federal courts inferior to it.

While the amendment might be interpreted to permit the states to continue to legislate on the subject until Congress stepped in and took over, the amendment would transfer the ultimate legislative power on the subject from the states to Congress because the acts of Congress would nullify all inconsistent state laws by virtue of the supremacy clause of Article VI.

It is to be noted for the sake of clarity, however, that on its effective date Congress and the states would be robbed by the amendment of the constitutional power to pass any law making the legal right or liability of any person dependent on sexual differences between men and women.

This vast transfer of governmental power from the states to the distant and often insensitive national government in Washington would imperil both good government and liberty to an indescribable degree. Woodrow Wilson, a profound student of the Constitution, gave Americans this admonition:

"When we resist . . . the concentration of power, we are resisting the processes of death, because the concentration of power is what always precedes the destruction of human liberties."

#### THE SUPPORT FOR THE EQUAL RIGHTS AMENDMENT

Support for the Equal Rights Amendment is derived from an odd combination of persons whose motives for advocating it are irreconcilable.

The majority of its advocates do not understand what it means and will do; whereas the minority of its advocates do understand what it means and will do.

I digress momentarily to comment on what one of its most distinguished support-

<sup>2</sup> *Reed v. Reed*, (1971) 404 U.S. 71, 30 L.Ed2d. 225, 92 S.Ct. 251.



ers in the Senate was recently reputed by the press to have said when he appeared before the Senate committee considering a resolution to submit the proposed amendment to the states again. On being interrogated by members of the Senate concerning his opinions as to what the amendment would do, he declined to answer their questions, and undertook to justify his action in so doing by saying the questions were not relevant to the legislative obligations of Senators, and could only arise properly after the amendment was adopted, and the Supreme Court was required in the exercise of its judicial duty to interpret it.

I end my digression by observing that the distinguished Senator's reputed statement recalled to my mind this observation I often made to high school students who visited my office during my years in the Senate:

"All of the queer animals in Washington are not in the Zoo; some of them are in Congress."

The attitudes and motivations of the majority and minority advocates of the Equal Rights Amendment are incompatible.

The majority of its advocates are not learned in the Constitution and the laws. They cherish the Constitution as an instrument of government. They simply dislike some of the requirements of some of the customs and laws relating to men and women; think that these requirements make invidious or unjust discriminations against women; and believe that the Equal Rights Amendment offers a benign way to abolish these invidious and unjust discriminations without impairing the Constitution they cherish.

The minority of the advocates of the Equal Rights Amendment know what it means, and what it will do. They idolize the concept embodied in the words "equality of rights under the law", and abhor the existing customs and laws because they frustrate the practical consummation of this concept by taking sex differences into consideration and establishing differing legal rights and responsibilities for married men and women in respect to themselves, one another, and their children, and differing legal responsibilities for all men and women in respect to military services to the country both in war and in peace. Moreover, they maintain that these customs and laws frustrate the practical operation of the concept of equal rights under the law by giving widows economic protections they do not extend to other persons.

The minority of the advocates of the amendment support it because it will abrogate the existing customs and laws, and make a revolutionary change in the Constitution to disable all legislative bodies in the nation to validate any comparable customs or enact any comparable laws in the future.

Candor compels me to assert that years of study of what advocates of the Equal Rights Amendment have said in its support have not revealed a single rational reason why the structure of our government should be altered in the revolutionary fashion the amendment contemplates, or a single rational reason why wives, mothers, widows, and children should be robbed of the legal and economic protections existing customs and laws secure to them.

I am constrained to suggest that those who advocate abolishing the primary legal responsibility of fathers to support the children they beget, as advocates of the Equal Rights Amendment do, ought to read and ponder verses 3 to 6 of chapter 18 of the Gospel According to Matthew, which de-

clares that it would be better for a person who offends a child if a great millstone were hanged about his neck and he were drowned in the depth of the sea.

Since American jurisprudence extends to all women the option of marrying or refraining from marrying, there is no place in the Constitution for an amendment, such as the Equal Rights Amendment, which is deliberately designed to penalize women who choose to marry by robbing them, in the name of a specious "equality of rights under the law", of the legal rights and economic protections existing customs and laws give them as wives, mothers, and widows.

The support of both segments of the advocates of the amendment is based on America's great delusion that all the problems of life can be solved easily, quickly, and finally by amending the Constitution or by passing a law. Most of life's problems are not susceptible to a solution of this character.

As a general rule, their solution is to be found in religion, ethics, and morality. Problems arising out of relationships between human beings must ordinarily be solved by mutual understanding and cooperation on their parts.

The problems arising out of the intimate relationships between husband and wife can be solved only by love.

Notwithstanding these truths, many politicians give a speedy response to the demands of constituents for a constitutional amendment or a new law without pausing to ask or answer these relevant questions:

1. Is there really a problem which demands solution?

2. If so is the problem one which is susceptible of solution by a constitutional amendment or a new law, or must it be solved in some other way?

3. Will the proposed constitutional amendment, if adopted, or the proposed new law, if enacted, create more serious problems than the problem it is devised to solve?

Advocates of the Equal Rights Amendment assert that its adoption would easily, quickly, and finally solve all the problems which life brings to women. They are simply deceiving themselves. If the Equal Rights Amendment were adopted, life would continue to bring to women all of the problems it has always brought to them. But all legislative bodies throughout the nation would be imprisoned in the constitutional strait-jacket of the amendment, and would be rendered powerless to correct any of these problems by bestowing solely upon women benefits or protections, no matter how necessary or sensible the bestowal of such benefits or protections would be.

#### THE HISTORY OF THE EQUAL RIGHTS AMENDMENT BEFORE ITS SUBMISSION TO THE STATES

The history of the beguilingly and deceptively phrased Equal Rights Amendment is intriguing.

The amendment originated about 1923. For some years thereafter some women based in the City of Washington, who called themselves The National Woman's Party and lobbied for legislation for women, sought in vain to persuade Congress to submit it to the states for their consideration.

At that time organized pressure groups were virtually nonexistent; lobbyists were genteel; and members of Congress did their own investigating and thinking, based their official decisions on basic principles, and sought power and influence by courageous and intelligent leadership. Congress recognized that the Equal Rights Amendment was a well-intentioned proposal of highly

devastating potentialities, and for many years courageously and wisely refused to submit it to the states.

After a proneness to appease because prevalent in Congress, a Senate committee reported the proposed amendment. When it was read in the Senate, Carl Hayden, a wise Senator from Arizona, recalled a state law which forbade the employment of women in the deep copper mines of Arizona and submitted a pencilled amendment providing, in essence, that the Equal Rights Amendment should not invalidate any laws which gave special protections or exemptions to women.

The Senate unanimously adopted Senator Hayden's amendment, and the advocates of the Equal Rights Amendment refrained at the time from further action because they realized that it would thwart their efforts to abolish all legal distinctions between men and women.

This event was repeated in the Senate on other occasions, and gave rise to a demand of the advocates of the Equal Rights Amendment that it be approved without the Hayden or any other amendment.

After these events advocates of the Equal Rights Amendment persuaded some nationwide organizations of women possessing enormous political power that the amendment would liberate women from all troublesome legal problems, and induced them to adopt the amendment without change as their legislative goal.

It may be an unfortunate day for the United States for politically powerful groups to accept the enactment of any law or the adoption of any constitutional amendment as their legislative goal. This is because their zeal for victory may deter them from investigating and understanding the injurious consequences to the country of that which they seek.

This has been true in respect to the Equal Rights Amendment. As a general rule, those who advocate its adoption invoke as reasons for its advocacy court decisions that have been overruled; and laws that have been repealed or adjudged unconstitutional; and mistakenly assert that laws affording protection to wives, mothers, widows, and helpless children constitute invidious or unjust discriminations against all women. Moreover, they will not take the energy or time to ascertain that Congress and the states have already abolished virtually all invidious or unjust discriminations made by law against women.

One of the disturbing facts of life is that in a controversy between knowledge and ignorance, knowledge is in peril because it is limited, whereas ignorance is unlimited.

The House passed H.J. Res. 264 embodying the Equal Rights Amendment in 1970. After that event, Robert Sherrill, the distinguished journalist, remarked:

"The equal rights amendment's journey down the corridors of Congress has so far been an impressive demonstration of what can be achieved through almost total ignorance."

I made several speeches advising the Senate what the amendment means and would do when the Senate considered H.J. Res. 264 in October, 1970. In one of them I deplored the tragedy that the amendment would rob mothers of legal rights and protections, and quoted the Yiddish proverb: "God could not be everywhere; so He made mothers." Several days later a body of supporters of the amendment demonstrated for it on a street in Washington. A lone dissenter marched beside them carrying a placard

bearing the words: "God could not be in the Senate; so He or She made Senator Ervin."

I offered amendment 1049 which stipulated that the amendment should "not impair any law of the United States which exempts women from compulsory military service." The Senate approved my amendment by 36 yeas to 33 nays on October 13. Shortly thereafter H.J. Res. 264 was laid aside by sponsors because the amendment's supporters implacably insisted that the conscription laws and all other laws had to apply to men and women without variation.

After the Senate approved my amendment exempting women from the draft and H.J. Res. 264 was abandoned, the most energetic advocates of the Equal Rights Amendment took pains to insure that Congress would be subservient to them the next time the Equal Rights Amendment was presented to it.

At their bidding, influential members of the women's organizations supporting the amendment visited the Senators and Representatives they knew and solicited their support. In addition, they established in Washington the most powerful lobby the capital of the nation had ever seen.

Their lobbyists visited Capitol Hill with a zeal comparable to that of the locusts which plagued Egypt in the days of Moses and Pharaoh.

They assured Senators and Representatives that the Equal Rights Amendment was a salutary proposal which would liberate all women from bondage to discriminatory law; that virtually all women in America favored it; and that those women would be highly pleased by members of Congress who voted for the amendment and highly displeased by those who did not.

By cajolery, they obtained pledges of support from members of Congress who deplore the intellectual labor of ascertaining for themselves what legislative proposals mean and will do, or Senators and Representatives who cherish unduly the good will of well-organized pressure groups. When a Senator or Representative indicated a reluctance to pledge his support to the amendment, they emphasized that they were merely asking him to vote to submit it to the states for their consideration and were leaving him free to oppose its ratification by the states if he afterwards concluded it to be unwise. If a Senator or Representative seemed obdurate to their entreaties for support of the amendment, they suggested to him that he would suffer reprisals at the polls.

While the lobbyists for the amendment were laboring in Washington, the overwhelming majority of all women in America went about their accustomed ways unaware that their existing and prospective rights and protections as wives, mothers, and widows were in peril in Washington. For this reason, no one in Washington lobbied against the amendment. Moreover, with rare exceptions, the press was indifferent to its obligation under the First Amendment, and made no substantial efforts to enlighten the nation concerning the meaning and devastating nature of the amendment.

When Representatives supporting it judged the time propitious, they introduced the Equal Rights Amendment in the House as H. J. Res. 208. Their judgment was unerring, and on October 12, 1971, the House passed H. J. Res. 208 without change by a vote of 354 to 24 and sent it to the Senate.

I was an independently minded Senator, who was not amenable to cajolery or threats. Besides, I must confess I was a legislative fool who rushed in where legislative angels feared to tread.

The Senate debated the House-passed Equal Rights Amendment in March, 1972. I remained on the Senate floor throughout the debate, fighting the amendment almost singlehandedly. I pointed out the devastating effects the amendment would have on the legal rights and protections of wives, mothers, widows, and children, and the drastic limitations the amendment would impose on the legislative powers of Congress and the states.

In addition, I introduced amendments to reduce the devastating effects the amendment would have if it should be adopted. I did not make many converts. The overwhelming majority of Senators had pledged themselves to vote to submit the amendment to the states, and absented themselves from the Senate floor during the debate. In obedience to their pledges, they marched into the Senate when the rolls were called, and rejected all of my amendments by margins abhorrent to reason.

They defeated by a vote of 77 to 14 my amendment providing the Equal Rights Amendment should "not impair the validity of any laws of the United States or any state which extend protections or exemptions to women." (Amendment No. 1068.)

They defeated by a vote of 72 to 17 my amendment providing that the Equal Rights Amendment should "not impair the validity of any laws of the United States or any state which impose upon fathers responsibility for the support of their children." (Amendment No. 1069.)

They defeated by a vote of 79 to 11 my amendment providing that the Equal Rights Amendment should "not impair the validity of any laws of the United States or any state which assure privacy to men or women, or boys and girls." (Amendment No. 1070.)

They defeated by a vote of 71 to 17 my amendment providing that the Equal Rights Amendment should "not impair the validity of any laws of the United States or any state which make punishable as crimes sexual offenses." (Amendment No. 1071.)

They defeated by a vote of 78 to 12 my amendment, which was a substitute for the Equal Rights Amendment, providing that "neither the United States nor any state shall make any legal distinction between the legal rights of male and female persons unless such distinction is based on physiological or functional differences between them." (Amendment No. 472.)

They defeated by a vote of 82 to 9 my amendment, which was a substitute for the Equal Rights Amendment, providing that "equality of rights under the law shall not be denied or abridged by the United States or by any state on account of sex. The provisions of this article shall not impair the validity of any laws of the United States or any state which exempt women from compulsory military service, or from service in combat units of the Armed Forces; or extend protections or exemptions to wives, mothers, or widows; or impose upon fathers responsibility for the support of children; or secure privacy to men or women, or boys or girls; or make punishable as crimes rape, seduction, or other sexual offenses."

By rejecting my amendments, the Senate guaranteed by its legislative history that the objective of the Equal Rights Amendment is to convert the two sexes created by God into identical legal beings having identical legal rights and identical legal responsibilities at all times and under all circumstances.

Having done this, the Senate passed the Equal Rights Amendment without change

by a vote of 84 to 8 on March 22, 1972, and thus concurred with the House in submitting it to the states.

The seven Senators who joined me in voting against submission were Senators Bennett, Buckley, Cotton, Fannin, Goldwater, Hansen, and Stennis. They were noted for their indomitable political courage.

After all of my amendments had been rejected and shortly before the Senate's final vote, I made these extemporaneous remarks in the Senate:

"This is the most drastic proposal for amendment to the Constitution ever recommended or supported in the history of this nation. . . . If it is . . . ratified by the States . . . the federal system, which contemplates an indestructible union composed of indestructible states, . . . will be substantially destroyed, and all legislative powers relating to the manifold relations of men and women will be concentrated in the Congress of the United States. Not only that, but the ultimate power to interpret all the laws of this nature will be lodged in the federal courts to the exclusion of the states courts. . . .

"(It) is . . . bad . . . to concentrate all power of this nature in the federal government, because nothing truer was ever said than the statement which Woodrow Wilson uttered on one occasion in which he said that when we resist the concentration of governmental power, we resist the processes of death because concentration of power always precedes the destruction of human liberties.

"I wish to pay tribute to the small band—an exceedingly small band—of stouthearted Senators who have shared my views in respect to the equal rights amendment and have supported my efforts to bring some degree of order out of the legal chaos which the amendment is likely to inflict upon our country. It is almost impossible to conceive the state of legal chaos which will ensue if this amendment is ratified by the States. It will invalidate thousands of laws which make legal distinctions between men and women, many of which are based upon entirely rational grounds and a recognition of the fact that God did create two sexes.

"These stouthearted Senators who have stood by me in this body sought in vain to make it certain that the equal rights amendment would not compel the Congress to subject women to compulsory military service when there was no necessity for so doing. They sought, and sought in vain, to make it certain that the daughters of America would not be sent into combat to die or to be maimed by the bayonets, the bombs, the bullets, the grenades, the mines, the napalm, the poison gas, and the shells of an enemy.

"They tried to make certain that the laws of the United States and the laws of the States which extend protections and exemptions to women in general and to wives and mothers, and widows in particular, which commonsense and reality and the experience of mankind have shown to be needful to enable them to perform their roles as wives and mothers, and to extend to helpless children the nurtures which they require in their infancy, and to give them the training necessary to their intellectual and spiritual development, were not outlawed by this amendment. They sought to do that in vain.

"They also sought to make certain that the laws which imposed upon husbands the primary obligation to support their wives, and upon fathers the primary obligation to



support their children, would not be abrogated by this amendment. They also sought to do that in vain.

"They also sought to make certain that the laws of the United States and the laws of the States which secure privacy—an invaluable right—to men and women and to boys and girls would not be abrogated by this amendment. They sought to do that in vain.

"They also sought to make certain that mature men would not go unwhipped of justice if they seduce innocent and virtuous women under promises of marriage, or if they have carnal knowledge of immature girls under the age of consent, or if they transport women and girls in interstate or foreign commerce for the purpose of debauchery and prostitution. These stout-hearted Senators also sought that objective in vain.

"The stouthearted Senators, who stood by me in this fight, and I have sustained an overwhelming defeat. But I believe that we have sustained this defeat under circumstances in which defeat serves better than victory to shake the soul and let the glory out. I say to those stouthearted Senators who supported me in this fight that they can lay to their hearts the satisfaction that they have not aided in an effort to crucify American womanhood upon the cross of dubious equality and specious uniformity. They have pursued this course because they cannot blind themselves to the proposition that when God created mankind, he created them male and female.

"I cannot vote for this resolution on final passage.

"I sincerely hope that the State legislatures will give serious consideration to all the arguments which have been made for the resolution and all the arguments which have been made against the resolution. I hope they will not agree to a constitutional amendment which would compel Congress to send my 5-year-old granddaughter on a subsequent occasion into combat with armed enemies of the United States where there are millions and millions and millions of men available to perform that duty."

Immediately after I yielded the floor, Majority Leader Mike Mansfield, a most gracious man, said:

"Mr. President . . . may I extend my congratulations to the distinguished senior Senator from North Carolina, for the fight he has waged in all honesty, with deep conviction, and with great vigor.

"If this constitutional amendment is adopted in the Senate by a two-thirds vote, it will not be a catastrophic defeat for the distinguished Senator; but if defeat there is, it will be an honorable defeat because he has stated his case with cogency and clarity, and he has waged the good fight for what he thinks is right, and perhaps history will prove him right. But, as the Senator has indicated, it is going to take three-quarters of the states to affirm or to approve what Congress will have done if this body this afternoon passes the constitutional amendment by a two-thirds majority, and that remains to be seen.

"I want to pay my deepest respects to the distinguished Senator not only for the fight he has waged, consistently and with clarity, but also for the fact that he is the only member of this body who, since we returned to the second session of this Congress on January 18, has been engaged in debate, day in and day out, without fail. He has been the first member to come into the Chamber, along with the joint leadership. Almost

always he has been the last member of leave.

"So I commend the distinguished Senator for the remarkable physical stamina he has shown, and I honor him for the intellectual integrity he has displayed."

I now disclose what I learned from private conversations past numbering.

Many Senators and Representatives, who were pragmatic politicians, voted to submit the Equal Rights Amendment to the States notwithstanding they realized its true meaning and implications. To quiet their consciences, they laid the flattering unction to their political souls that they were voting to submit and not to ratify; that the states would ascertain the devastating nature of the amendment and refuse to ratify it; and that they could acquire or retain the good will of advocates of the amendment by passing the buck to the states and voting to submit the amendment to them without harming the country.

After all, pragmatic politicians resemble God in one respect. They move in mysterious ways their wonders to perform.

#### THE HISTORY OF THE EQUAL RIGHTS AMENDMENT AFTER ITS SUBMISSION TO THE STATES

The Constitution required the affirmative vote of 38 states to ratify the Equal Rights Amendment.

A number of state legislatures shared in the euphoria which the submission of the amendment gave to its advocates, and in consequence 22 states voted to ratify it by November, 1972, without making any real effort to determine its meanings or consequences.

Some patriotic and knowledgeable Americans, chiefly women, were alarmed by this trend. With meagre financial resources and virtually no aid from professional politicians, they assumed the formidable task of educating the American people and state legislators in respect to the true significance of the Equal Rights Amendment and what it would do to the legal rights and protections of women in general and wives, mothers, widows, and children in particular and how it would shift the legislative and judicial powers of the 50 states to Congress and the Supreme Court at Washington if it should be ratified.

These patriotic and knowledgeable Americans did an exceedingly good job. As a result, state ratifications of the Equal Rights Amendment slowed and finally ended altogether. Despite stupendous propaganda and threats, the advocates of the amendment induced only 35 states to ratify it, and five of the ratifying states rescinded their ratifications after they learned the truth about the amendment.

Advocates of the amendment undoubtedly deterred other states which had ratified from rescinding their previous action by their contradictory contention that states which had rejected the amendment could change their minds and ratify it, but states which had ratified it could not change their minds and reject it.

As a matter of constitutional truth, states falling in either of these categories have the power to change their minds and reverse their previous decisions until a proposed constitutional amendment has been actually added to the Constitution by the ratifying votes of three-fourths of all the states.

The congressional resolution submitting the Equal Rights Amendment to the states in 1972 limited the period for ratification to the ensuing seven years, the period habitually designated by Congress in such cases.

As the seven years were nearing their end, it became obvious that three-fourths of the states would not ratify the amendment before the deadline for ratification expired, and the then existing Congress, which was clearly subservient to the advocates of the amendment, took an action without precedent in the annals of the country. It undertook to extend the time for ratification for three additional years by majority votes of the members of its two houses.

The proposal to extend the time for ratification was considered initially by a Senate committee chaired by my good friend Senator Birch Bayh, of Indiana, the most eloquent champion of the amendment in the Senate. When I appeared before the committee in opposition to the proposal, I charged that the amendment would convert men and women into legal beings of the neuter gender, and propounded the rhetorical question: "Who would want to marry a being of the neuter gender?" Senator Bayh responded: "I wouldn't." I retorted: "Birch, that's the most intelligent remark you've made since the committee met."

In extending the time for ratification, Congress repudiated Article V under which it had to act, and the decision of the Supreme Court in *Dillon v. Gloss* correctly interpreting that Article.

When it extended the period for ratification, Congress in reality submitted the amendment to the states a second time. It had no power to do so. Article V expressly requires a vote of two-thirds of each House of Congress as conditions precedent to submitting a proposed amendment to the states.

The Supreme Court rightly declared in *Dillon v. Gloss*<sup>3</sup> that the proposal of a constitutional amendment by Congress and its ratification by the states are not unrelated acts, but, on the contrary, are succeeding steps in a single endeavor; that a proposed amendment must be ratified by the requisite number of states within the period reasonably specified by Congress in the resolution submitting it; and that the states cannot vote upon it after that period unless Congress submits it to them "a second time."

The advocates of the amendment sought the extension of the time for ratification rather than a resubmission of the amendment to the states because they believed that ratifications made during the seven years specified in the original resolution would remain in effect during the extended period.

They were, I submit, indulging an idle hope. Virtually all state resolutions ratifying the amendment expressly conditioned their effectiveness on the requisite number of states approving it within several years after 1972.

During the extended period of three years, advocates of the Equal Rights Amendment sought by propaganda and threats without precedent in the nation's history to induce other states to ratify it. Not a single state did so.

As the extended period was nearing its end, the States of Arizona and Idaho and numerous state legislators sought a declaratory judgment in the United States District Court for the District of Idaho decreeing that Congress had no power under the Constitution to extend the time for ratification of the amendment beyond the seven years

<sup>3</sup> *Dillon v. Gloss*, (1921) 256 U.S. 368, 65 L.Ed.994, 41 S.Ct. 510.

originally designated by it, and that the five states had the power under the Constitution to rescind their original ratifying votes.

I filed an *amici curae* brief in the case in behalf of some state legislators, and was anxious for the presiding judge, Judge Marion, J. Callister, Chief Judge of the United States District Court for the District of Idaho, to decide the case on its merits.

One of the defendants in the case, NOW, clearly indicated that it never wanted the Court to make a ruling on the merits, and convinced me that it ought to change its corporate name from NOW to NEVER. When it seemed to be feasible for Judge Callister to set the case for hearing on its merits, NOW habitually made a dilatory motion to prevent his so doing.

Finally, however, all of NOW's dilatory motions were adjudged, and Judge Callister made his ruling on the merits. In an opinion of surpassing excellence, he decreed that Congress had exceeded its constitutional power in extending the time for ratification of the amendment, and that the five states had merely exercised their constitutional power in rescinding their prior ratifying votes.

NOW and the other losing litigants appealed this ruling directly to the Supreme Court. Before the Supreme Court could pass on their appeals, the combined ten years allowed by Congress to the states for consideration of the amendment expired without three-fourths of them ratifying it, and the Supreme Court ruled that this event rendered the constitutional questions raised in the case moot.

#### CONCLUSION

When they framed and ratified the Constitution, the Founding Fathers contemplated that the United States would be a free and intelligent Republic. In the nature of things, they were compelled to entrust its future to the persons destined to exercise the governmental powers it ordains.

The Founding Fathers clearly contemplated that Senators and Representatives participating in amending the Constitution under Article V would be persons of political courage, intellectual integrity, and complete devotion to the country; and that their decisions on proposals to amend the Constitution would be made solely on the basis of the general welfare of the United States.

They certainly did not contemplate that Congress would vote to submit a proposed amendment to the states to aggrandize the political fortunes of its members, or to curry favor with organized pressure groups, no matter how powerful or well-intentioned those pressure groups might be.

About 1850, Thomas Babington Macaulay, the wise British essayist, historian, and statesman, made this caustic comment concerning members of the British House of Commons:

"The members are more concerned about the security of their seats than about the security of their country."

The alacrity with which Congress made obeisance to the powerfully organized supporters of the Equal Rights Amendment and their lobbyists in submitting the amendment to the states and in extending the time for its ratification when it floundered engendered the fear in the hearts and minds of multitudes of Americans that Macaulay's caustic comment about the members of the British House of Commons now applies with equal truth to Senators and Representatives in the American Congress.

Notwithstanding the alacrity of Congress in these aspects, and notwithstanding the

untiring efforts of advocates of the amendment to induce such action by them by political pressures and economic threats previously unknown in America, the requisite number of states refused to ratify the Equal Rights Amendment within the combined period of ten years after the true meaning of its beguiling and deceptive words were exposed. The refusal of the states to ratify make it manifest to persons willing to face reality that the vast majority of all Americans who are informed on the subject are now opposed to the Equal Rights Amendment.

These illuminating events ought to enlighten advocates of the Equal Rights Amendment as well as Congress. Despite their illuminating power, however, unrelenting advocates of the amendment are ignoring them and demanding that Congress resurrect the repudiated amendment and submit it to the states again.

If it will courageously and intelligently reject this demand, Congress will do much to allay the fear of multitudes of patriotic and thoughtful Americans that Senators and Representatives are more concerned about the security of their congressional seats than they are about the security of our country.

The Constitution is the most precious instrument of government the earth has ever known. For years I have studied it and fought to preserve it for the benefit of all Americans of all generations. During those years, I have devoted much energy and time to the Equal Rights Amendment and its implications.

If I survive until September 27, 1983, I will be of the age of four score and seven years. My political ambitions have vanished. I seek the political acclaim and support of no person.

I have told the truth about the Equal Rights Amendment simply because I love my country. The same motive constrains me to make some concluding observations about amending the Constitution.

Constitutional amendments are "for keeps." Unlike ordinary laws, they cannot be easily repealed. Once adopted, they can be removed from the Constitution only by means of the amendatory process created by Article V. Consequently, a constitutional amendment, once adopted, may remain in the Constitution, and bless or curse America until the last lingering echo of Gabriel's horn trembles into ultimate silence.

Congress and the states should act cautiously, advisedly, soberly, and without emotion when they are asked to add an amendment to the Constitution. They should never adopt an amendment unless it is calculated as well as intended to promote the general welfare of the United States. They should spurn all amendatory proposals, such as the Equal Rights Amendment, which are irrational or whimsical, irrespective of the political power and good intentions of those who advocate them.

In conclusion, I affirm that my protracted study of the Equal Rights Amendment and its disastrous implications has implanted indelibly in my mind these abiding convictions:

1. No Senator or Representative in Congress ought to vote to submit the amendment to the states unless he honestly believes that God made a mistake by creating two sexes to perpetuate human life on earth, and that the amendment constitutes an appropriate way to correct this mistake of God insofar as it is correctible by human law.

2. No member of a state legislature ought to vote to ratify the Equal Rights Amendment unless he honestly believes that he and his legislative colleagues are mentally incompetent to enact laws to govern the actions and relationships of men and women within the borders of their states, and that their existing constitutional power to enact such laws ought to be transferred from them to Senators and Representatives of the other 49 states sent to Washington to represent them in Congress.

#### PROF. DENNIS BRUTUS

● Mr. DIXON. Mr. President, I was pleased to introduce, on August 4, 1983, together with Senators PERCY and CRANSTON, S. 1769, a private relief bill on behalf of Prof. Dennis Brutus of Northwestern University. The legislation is designed to grant him resident alien status in the United States.

Professor Brutus is a 59-year-old black South African exile, an intellectual, and a poet who teaches African literature in the English department of Northwestern University in Illinois. He has an international reputation as a poet and as an opponent of apartheid, the system of racial separation.

At the present time, Professor Brutus is awaiting the decision of a deportation hearing which was held in Chicago last month. If the court orders him deported, the consequences could be disastrous. Leaving the United States could actually jeopardize his life.

Professor Brutus last entered the United States on February 25, 1980, in order to continue his teaching assignment at Northwestern University. His visa status at that time was classified and approved by the Immigration and Naturalization Service as H-1—that is, a person of distinguished merit or ability. Such visas are granted for a period not to exceed 1 year, and are renewable for increments of 1 year thereafter at the discretion of the Immigration and Naturalization Service.

At the time of his entry, Dennis Brutus, a native of Rhodesia, carried a British passport. In the spring of 1980, Rhodesia was granted independence and became Zimbabwe. At that time, Britain canceled all passports that had been issued to natives of Rhodesia. Professor Brutus was unaware of this passport change until he applied for an extension of his visa at the Immigration and Naturalization Service in Chicago during January 1981. By the time the new Government of Zimbabwe had issued a passport to Brutus, he was late in applying for the extension of his H-1 visa.

During this period, Professor Brutus honored his commitment to Northwestern University, and he continued to teach in accordance with the terms of his contract. This decision placed him in violation of the Immigration and Naturalization Act which prohibits a nonresident alien from working



without a valid visa. This violation can only be remedied by returning to Zimbabwe and reapplying for a visa.

Dennis Brutus and his supporters fear that should he be forced to return to Zimbabwe, he will become a target for assassination because of the life-long battle that he has waged against racism and apartheid.

While this danger may be impossible to assess, we must keep in mind that another black critic of apartheid, Joe Gqabi, was assassinated in Zimbabwe in 1981, and Ruth First, an exiled white South African editor of a newspaper that Brutus once wrote for, was recently killed by a letter bomb at the University of Mozambique.

Senators PERCY, CRANSTON, and I are not the only ones who seek to protect the right of Professor Brutus to remain in the United States and who believe his case has merit. His case has attracted considerable attention in the press in my State. The Chicago Tribune and the Chicago Sun-Times, the largest daily newspapers in Illinois, have editorialized on his behalf. Vernon Jarrett, a very distinguished columnist with the Tribune, has also strongly urged that Professor Brutus be allowed to remain in the United States.

I submit that the United States, the home of refuge for millions of aliens, cannot play roulette with the life of Professor Brutus. As long as there is an outside chance that he will come to harm because of his fight against racism, we should not allow his deportation. Professor Brutus needs our help; he deserves our help. I urge my colleagues to see that he gets it by quickly enacting this bill.

Mr. President, I ask that a copy of the bill, the editorials from the Chicago Tribune and Sun-Times, and the Vernon Jarrett column be printed in the RECORD at this point.

The material follows:

S. 1769

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That, in the administration of the Immigration and Nationality Act, Dennis Brutus shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by the proper number, during the current fiscal year or the fiscal year next following, the total number of immigrant visas which are made available to natives of the country of the alien's birth under section 203 (a) of the Immigration and Nationality Act or, if applicable, the total number of immigrant visas which are made available to natives of the country of the alien's birth under section 202(e) of such Act.

[From the Chicago Tribune]

DENNIS BRUTUS IN KAFKALAND

The trials and tribulations of Dennis Brutus, a college professor facing possible deportation by the U.S. Immigration and Naturalization Service, could have been dreamed up by Franz Kafka. It is a tale of bureaucratic mindlessness, of a machine-like government agency cranking a case through its cogs and wheels without regard to justice or even to good sense.

Mr. Brutus is a poet and tenured professor of English at Northwestern University who is also an outspoken opponent of South Africa's apartheid policies. He was born in what was then Rhodesia and later went to South Africa where he was imprisoned for his political activism. In 1966 he escaped to Britain where he obtained a British commonwealth passport based on his Rhodesian birth. He came to America in 1970 and took up his teaching position at Northwestern.

Then began a Kafkaesque snarl, a tedious and avoidable series of mistakes and misunderstandings some of which were the fault of Mr. Brutus, some the fault of the INS.

The first mistake was for him to remain in the U.S. on a temporary visa, renewing it each year instead of applying for permanent resident status. Had he obtained a more regular status there would now be no problem.

The situation was next complicated by creation of the Republic of Zimbabwe, which rendered his Rhodesian passport invalid. Without a passport he could not renew his temporary visa so he had to obtain a Zimbabwean passport, which he did. Then he applied for a visa renewal, but by then his old visa had expired. The INS, its ponderous machinery grinding along, said he would have to leave the country, apply for a new visa and wait for a decision to be made on whether, and under what terms, it would be issued. In effect, he was to be deported.

Mr. Brutus argues that the only country he can go to is Zimbabwe, and that he faces the possibility of reprisal—and even death—at the hands of South African agents there. The INS maintains that he can go to some country other than Zimbabwe. The whole dreary business is being argued out before a judge in Chicago.

But it need never have gone that far, and it should be stopped now. There are perhaps eight million illegal aliens living happily and relatively securely in this country (as many as 500,000 of them right here in Chicago). With so many people here in clearly illegal status it is illogical to hound out of the country a person whose legal status is merely in doubt—especially a scholar of the stature of Mr. Brutus.

There are several ways to short-circuit the process. The U.S. attorney general could do it. If the attorney general won't be bothered, a member of the Illinois delegation could introduce in Congress a private bill to resolve the matter.

However it is done, somebody somewhere should push the "stop" button on the witless bureaucratic machine and let Mr. Brutus go about his business.

[From the Chicago Sun-Times, July 21, 1983]

DON'T EXPEL BRUTUS

Dennis Brutus, the exiled poet now teaching at Northwestern University, is fighting in federal immigration court for the right to stay in the United States.

It's also a fight for his work—and his life.

Witness after witness has told Judge Irving Schwartz that Brutus faces the threat of assassination by South African terror squads if he's forced to return to his birthplace, Zimbabwe. He's threatened in any country but the United States, they say. They're quite probably right.

As an outspoken foe of apartheid, Brutus has become an international symbol of the struggle against South Africa's white racism. A colleague in the fight was recently machinegunned to death there. Even the State Department says Brutus's fears are "well-founded."

He has been jailed once by South Africa. He should be freed to live and flourish in the United States.

IMMIGRATION'S DOUBLE STANDARD

(By Vernon Jarrett)

If South African poet Dennis Brutus could only transform himself into a Ukrainian boy named Walter Polovchak, his immigration problems would be solved.

Even if he had run away from his parents—as Polovchak did as a protest—Brutus would be granted instant asylum in the United States and become a celebrity in a matter of hours. The United States, would deify him rather than deport him.

But Brutus is not a Polovchak fleeing a communist country. He is a 50-year-old black South African exile, a soft-spoken intellectual, a poet who teaches African literature in the English department at Northwestern University, and the U.S. Immigration and Naturalization Service (INS) wants to deport him to Zimbabwe, where he was born, though he was reared in South Africa, his parents' country.

Brutus and his supporters say the INS wants to deport him because it has accepted the South African government's definition of a subversive. He is a subversive according to South Africa's "Suppression of Communism Act of 1950," which declared: "Communism means any doctrine which aims at bringing about any political, industrial, social or economic change within the Union (of South Africa) . . ."

South Africa labeled Brutus a subversive in the 1960s when he began speaking out and writing against that government's official racial policy of apartheid. Moreover, Brutus was accused of being a member of the Colored Peoples Congress, a membership that he denies—which the government had labeled Communist.

One can expect such things of the rulers of the Union of South Africa, but for the United States to accept the logic or morality of that country's dictatorship is reprehensible. Yet, that, Brutus argues, is precisely the course adopted by the United States government.

In 1967, when Brutus applied to the U.S. for a visa using his British passport, the INS noted: "The Department of State has found that he is ineligible to receive a visa because of his former membership in the Colored Peoples Congress from 1950 to 1961, his contribution to articles to New Age and Fighting Talk, both considered to be Communist-affiliated newspapers, and because of his denial of membership in the above congress."

He was, however, granted a special "cultural exchange" visa that needs to be renewed annually. Until 1980 Brutus had been renewing his visa through INS with his British passport. In 1980, Great Britain granted independence to Zimbabwe [formerly known as Rhodesia] and informed Brutus

that his British passport was no longer valid and that he must obtain a passport from black-governed Zimbabwe.

Brutus applied for a Zimbabwean passport and notified his superiors at Northwestern, who notified the INS that his visa would expire because of the delay in changing passports. The INS left the impression that there was no problem, and Brutus continued to teach African literature. However, when Brutus applied for renewal, the INS informed him that he had broken U.S. immigration laws by working without a valid visa and said he would be deported to Zimbabwe. Brutus appealed, and the case is now in federal court before Immigration Judge Irving Schwartz. The INS has submitted a confidential State Department file on Brutus to Judge Schwartz to back its deportation order; however, the file is so confidential that Brutus and his lawyer have not been allowed to see its contents, adding to their fears that the deportation action is politically motivated.

In his quest for asylum, Brutus and his supporters argue that if he were returned to Zimbabwe, his life would be endangered because he would be an easy target for South African assassins or kidnapers. Zimbabwe has said it would welcome Brutus but could not provide him with 24-hour protection.

The INS has been reminded that in 1981 another black anti-apartheid crusader, Joe Gqabi, was assassinated in Zimbabwe, presumably by South African agents, and that Ruth First, the exiled white South African editor of a newspaper that Brutus once wrote for, was killed by a letter bomb at the University of Mozambique last year.

Brutus would be the perfect target for a South African kidnaper. He was imprisoned because of his anti-apartheid stands and escaped several times. During one escape he was shot in the back. In 1966, when he was given a one-way exit permit by South Africa, the government adjudicated that he would be automatically imprisoned if he ever returned. This man has since become an organizer of intellectuals throughout the world against South Africa. That government would like nothing better than to see his assassination or his return to South Africa by kidnapping so that it could slam him in jail permanently.

And the tragedy is that South Africa may do just that if the United States insists on one standard for Walter Polovchak and another for Dennis Brutus. ●

#### SENATOR BRADY'S GOOD ADVICE

● Mr. PERCY. Mr. President, Nick Brady is one of the finest men who has ever served in the Senate. He was appointed to fill an unexpired term and he did so with great distinction during the 8 months he was here. Before he came to the Senate, he served as managing director of Dillon, Read & Co. and was chairman of the board for Purolator, Inc.

Nick Brady was not a newcomer to either government or politics when he came to the Senate, and he drew a number of valuable lessons from his months here. At the May 14 meeting of the Business Council in Hot Springs, Va., the former Senator from New Jersey shared his views on the relationship between business and Government.

Mr. President, I ask that Mr. Brady's remarks before the Business Council be printed in the RECORD at the close of my remarks.

Mr. Brady notes in his address that business and Government must realize that they have distinctively different roles and operate on different timetables with different rules of procedure. Nick Brady is so right when he points out that the private sector and Government should have a better understanding and higher appreciation for each other's jobs. As a former businessman myself, I can attest to the misunderstandings that can arise between elected officials and the private sector they represent.

As he points out in his address to the Business Council, "the gulf between Government and the private sector would be of interest only to political scientists if it wasn't such a serious matter for the future of us all."

The private sector has the major role in insuring the Nation's well-being and standard of living but the Federal Government has an impact on the economy in major ways. Greater cooperation between the two sectors can provide a base for a stronger economy, especially in international trade where our companies are pitted against foreign competition aided by an array of Government assistance.

Nick Brady points out the gulf that exists between Government and business. He recounts a notion that he encountered when he arrived in the Senate that a few bankers sat down periodically to set interest rates. He states that "I was asked, 'Why won't the banks lower interest rates?' as though it were an easy thing to do. Very little understanding of the process."

The same misunderstanding exists in the private sector: "On the other side of the coin were many friends in the business community who asked, 'Why won't Congress face facts and balance the budget?' as though it were an easy thing to do. Very little understanding of the process."

In his address, Senator Brady proposes four ways that the business community could improve their relations with Government. We all know that Government officials can make efforts to do the same, but Senator Brady focused his remarks on how business could help.

His recommendations are that, first, companies should hold one board meeting a year here in Washington to allow board members the time for meetings with Government leaders on corporate problems. Second, corporations should consider appointing recently retired Congressmen or Senators to their boards of directors. Third, when screening applicants for top executive positions, companies could take a special interest in those men and women who are familiar with

Government and political procedure. Finally, he suggests that members of the Business Council make a concerted effort to establish a more personal relationship with Members of Congress to encourage the exchange of advice and ideas.

To highlight what he means, Nick Brady closes his remarks by saying that—

American agriculture became the world's leader not only because of hard-working farmers and new technology, but significantly because of the partnership between agriculture and government which produced a system to feed a third of the world. . . . Business and government can match that success.

We have a lot to learn from Nick Brady, not only because of his position in the business and investment communities but also because of the advice he can give us on ways to improve the functioning of our Government. I commend him for his willingness to speak out on this topic and strongly recommend his remarks to my colleagues.

The material requested to be printed in the RECORD follows:

REMARKS BY NICHOLAS F. BRADY TO THE BUSINESS COUNCIL, HOT SPRINGS, VA., MAY 14, 1983

It's a real honor to be able to address The Business Council. I'd like to thank Bob Beck for that very generous introduction.

I've been asked to speak about the relationship between business and Government. I hope you'll understand if many of my observations derive predominantly from my Senate experience.

Before I served in the Senate my attitude towards Government was ambivalent, but it wasn't quite as bad as one of George Burns' famous lines about Government. Burns said: "It's too bad that all the people who know how to run the country are busy driving cabs and cutting hair."

My eight months in the Senate convinced me differently and I think many of you who have spent time in Washington and in Government would agree. The majority of people in Government are bright, hard-working and concerned.

People like Howard Baker, Bob Dole, Pete Domenici, Russell Long, Scoop Jackson, Sam Nunn, and a host of younger Senators, could hold top jobs in industry.

And in the same sense, all of you in this room could be involved in Government at high levels if you so chose. Why then, with intelligent and concerned people in both business and Government, do they have such a tough time communicating with each other?

Instead of communicating, trying to understand and work with each other, business and Government are like two ships passing in the night, each one on a separate course, each one, to some extent, ignoring the other, even to a point where it seems a collision might be imminent.

I'll try today to talk a little bit about those two ships of business and Government and to suggest ways that we can perhaps improve communication, cooperation and real understanding between the two most powerful sectors in our country.

If what I say appears critical, then it is also criticism of myself, because to a large



extent it is advice that I might well have politely ignored a year ago. Even though I made frequent trips to Washington in the years preceding my eight and a half months in the Senate, I can now see that I had little real insight into the day-to-day workings of Government.

Why do business and Government miss each other like ships in the night? Perhaps the most important reason is that both sectors have traditions, customs, and even laws that validate their own goals and set their own agendas. Our society has validated these actions and agendas, again and again, over the years. In turn, this had led to a firm confidence among leaders in both business and Government that each has the rightful answer. If one party is sure he is fundamentally right, by definition the other party, if he disagrees, must be wrong. Is this the reason these leaders all too often don't communicate with each other? Frankly, I think so.

In reality the private sector and Government have different jobs to do: Jobs which have been given to them by the American people. For example, it is an entirely acceptable business practice for a corporation, in the name of profitability for its shareholders and the future health of the enterprise, to lay off a thousand, or two thousand, or five thousand people in times of declining sales. In fact, if executives don't act quickly enough at moments of declining sales, their boards of directors and stockholders will surely replace them.

However, at the moment people are laid off, we have decided in this country that it is then the Government's job to do something about the unemployment, to pay laid-off workers and help them buy food. Even further, a current debate in Congress concerns extending health care benefits to the unemployed.

The only question we really ask is how long should they be paid and how much. We decided long ago that Government in part shall pick up where business leaves off and pay unemployed workers in a transitional period.

In this over-simplified example, you can see that business and Government really do have different jobs and charters as well as different laws and regulations governing the separate mandates the American people have given to each.

The following statement will sound self-serving, but I certainly don't intend it to be so. During my time in the Senate, I was sometimes puzzled by a reoccurring comment a few of my colleagues made to me.

The comment was essentially, "Nick, you have really come to understand us in a way that few other people have." At first I couldn't figure out why they said it. I made very few speeches and sponsored only a few Bills and Amendments. I was able to give some advice and a little knowledge about what went on in the private sector, but in no sense was it a leadership role.

But then I began to realize that many Senators felt there was a deep lack of understanding among their countrymen about the ways of the Senate and perhaps Government. But also, the comment implied that they understood very little of the intricacies of business and they were grateful for any insights as to how business really worked.

The gulf between Government and the private sector would be of interest only to political scientists if it wasn't such a serious matter for the future of us all.

I'm afraid that this lack of understanding has led both Government and business to

turn off their hearing aids when the other is talking. The best example I can give you of this is the two questions I was repeatedly asked when I first started in the Senate.

Some Senators were convinced that David Rockefeller, Walter Wriston, and a few other trilateralist bankers convened in the ultimate smoke-filled room and set the interest rates each week. I was asked, "Why won't the banks lower interest rates?" as though it were an easy thing to do. Very little understanding of the process.

On the other side of the coin were many friends in the business community who asked, "Why won't Congress face facts and balance the budget?" as though it were an easy thing to do. Very little understanding of the process.

Because of this lack of understanding, to a large extent the time businessmen and Government officials spend together is characterized by a series of monologues. We talk at each other and not to each other. Unfortunately, there does not seem to be much interest in attempting to provide time for two-way conversations.

To be pointed, I would ask you to review the roster of speakers for this Business Council meeting, not only yesterday and today, but over the past several years. How many Government officials stayed for even a short period after they delivered their formal remarks? How many attempted to open a dialogue instead of simply telling us what they've done lately?

Before this becomes an indictment of Government officials alone, I would hasten to add that businessmen's forays into Washington are seldom better. Fly in, give a talk, talk at someone, and leave town as quickly as possible. Why does this happen?

One reason is geography. America is different from most foreign countries because our seat of Government is not a significant business center as well. London, Paris, Rome, Tokyo are all centers of Government and business.

In our country, Washington is all Government, New York has historically been our financial capital, and our business centers are in cities across America. So there is little chance for even the social relationship between business and Government that is taken for granted in most foreign capitals. Geographic distance and diversity can be the enemy of communication.

To some extent, the jet airplane is also the enemy of understanding between business and Government. People fly in and fly out. In the old days, I would guess, when you held your meetings here at The Homestead, you had to take the train to get here, and that anyone who made the commitment of a long train ride would come to stay awhile, during which time real talk could take place. That's no longer the case—jet in and jet out.

Just a brief comment on time. All of you in this room are scheduled out months in advance. If you can believe it, it is worse in Government. There is a saying "with all thy getting, get understanding." We are all so busy with our own agendas, we have very little time to understand others' agendas.

One could ask why is this so serious? It is serious because leaders in business and leaders in government have one central task—to provide for the well-being and the standard of living of the American people.

Average Americans look to their leaders in both business and Government to provide their families and themselves with a decent standard of living. Twenty years ago, maybe even ten years ago, business could provide

this standard of living by itself. Before the advent of the Great Society, Government was a very junior partner in our life. Not so today. We are equal partners, or Government may even be the senior partner.

Internationally, it's a whole new ballgame as well. The United States is no longer the unchallenged economic and military force in the world. Oil doesn't sell for three dollars a barrel any more. It sells for twenty-nine. We don't have the same military superiority we had twenty years ago when we could draw a line in the Caribbean and stare Khrushchev down as we did in the Cuban missile crisis.

Nor do we have the economic superiority. Fifteen years ago, "Made in Japan" were codewords for shoddy quality. Today, the words "Made in Japan" usually set the standard for top quality. Today, much is made of the words "Japan Inc." because it implies a dedication in Japanese society among business and Government and labor and the media to work together for the common good of the country.

While I'm in no way advocating the tight structure and Government predominance that the term implies, I wonder why we can't have an America Inc.? I know that one of the reasons is that the lack of communication and coordination between the various sectors of the country is not perceived to be a serious problem by most people. But it will be sooner or later, and probably sooner.

And I'm sorely afraid that if the American people see their standard of living eroding, and if they see America's position in the world declining, then they are going to give pink slips to both Government and business. The Government's pink slip will come in the form of a continual flip-flopping of government, from Democrat to Republican to Democrat from left to right and back again. Indeed, the first signs of this trend can already be detected. No president since Eisenhower has served two complete terms in office.

There is a good chance that we will witness the rise of third and fourth political parties as disillusionment with the two major parties deepens. I believe there could be significant potential for future splinter parties and the kind of political instability that we see in some of our European allies.

The pink slips will go to business as well, and the effects will be just as severe. From our point of view the pink slips will come in the form of increased Government regulation, national economic planning, and Government intervention in the market place.

What can be done to avoid these scenarios, to foster communication and cooperation? Let me ask you a couple of leading questions, one for businessmen and one for the politicians. First for the businessmen—when was the last time you sat down with your Senator or Congressman and you didn't have an urgent problem that required his immediate help? When was the time you met over dinner or breakfast just trying to build a relationship, to establish respect and understanding, the basis for a dialogue, not a monologue?

Now a question I would put to the politicians. When was the last time you called a businessman and didn't either (a) ask him for a campaign contribution, or (b) state that the Acme Widget Company had absolutely no right to lay off 5,000 of your constituents?

I believe it is an absolute necessity for businessmen to look upon their relations with Government in a whole new light. Actually, neither businessman nor politician can look at it as something you can do in

your spare time, as a schedule filler, or something that irritates and interferes with your day.

At some point, probably everyone in this room will want to call into or call upon the Government on an important matter. And just as if you were drawing a check upon a bank, you better have some personal capital built up, some funds on deposit, or your check is going to be returned for insufficient funds.

Enough talk about the problem. The question is what should be done. Without arguing who should take the leadership role, I believe it would be a good idea for people in business to take the first step. Let me suggest four areas where this might take place.

First, without appearing trite, why not hold one of your board meetings each year in Washington? All of us who serve on boards make trips to important plant locations where new products are being developed. Our Government is as important a part of our business life as a new product.

Why not hold one board meeting a year in Washington, finish up your business promptly, then spend the rest of the day in meetings with Government leaders? I would even suggest sitting in the Senate and House galleries for half an hour. It may be Civics 101, but frankly, it will give you a feel you couldn't get any other way.

Second suggestion: We have all made great strides by adding women and minorities to our boards of directors. In a similar vein of "affirmative action," why not add someone recently retired from the political arena. I'm not suggesting that you go out and recruit just any politician for your board, and I'm certainly not suggesting that you recruit me. But in another 18 months, some of you will have the chance to add a man like Howard Baker to your board and he and those like him will be a great asset to any company.

If you agree that this is a good idea, I suggest that you tell your executive search firms to add Government service to the criteria they look for in candidates for your board of directors.

Third, as you pick your top officers, I would suggest that a higher degree of importance be given to someone who has taken the trouble to understand Government and its workings. Now, I'm not advocating political scientists to head our major corporations, but over the long term our country and your corporation will be better served if our corporate leaders have a real understanding of how both business and Government work and, therefore, can work together.

Fourth, I suggest that The Business Council, the foremost business organization in the country, should do some counseling. I know I'm treading on thin ice here and I am not suggesting the establishment of a lobbying effort. To me, there is a tremendous difference between lobbying, which projects a narrow point of view, and giving good advice, good counsel, and earning the respect of your partner.

And like it or not, Government is our partner. Perhaps every member of the Business Council should endeavor to build a relationship with one or two Members of Congress, not to lobby, but to counsel, not to ask for help but to offer help even if the offer is one of a business perspective on the problems we all face.

The way to build this relationship is on a personal basis over breakfast or dinner at your homes by means of a tennis game or a joint community project the same way you build a relationship with good friends.

Increasing communication cannot be a short-term program. The gap in communication, in cooperation, in understanding is too deep.

Perhaps we should start a series of meetings to figure out other ways of increasing communications. These meetings should not only include Government leaders, but also labor and media.

We may face a special problem with our friends in the media who might see any business plan for increased communications with Government as part of some dark and ominous conspiracy. I believe we should lay our cards on the table and ask the leaders from the New York Times, Washington Post, The Los Angeles Times, The Houston Post, and the networks to join our discussion in hopes of finding common solutions for common problems.

I'm optimistic that Government and business can develop a new relationship. On my way down to The Homestead yesterday I was reading Lester Thurow's economic column in Newsweek. Thurow writes about the world leadership American agriculture has achieved. But, as he points out, it didn't used to be this way. In the early part of this century, American agriculture was in disastrous shape with virtually no growth in production and no productivity increases. In fact, Russia used to be the largest grain exporter in world markets.

American agriculture became the world's leader not only because of hard-working farmers and new technology, but significantly because of the partnership between agriculture and Government which produced a system to feed a third of the world.

Business and Government can match that success. But it will take hard work, understanding, and building a real partnership to face the world's challenges. It's an ambitious goal, but it's a goal that Americans in business and Americans in Government can achieve together.

Thank you for the courtesy of allowing me to speak to you this morning.●

#### EDUCATIONAL REFORM

● **Mr. DURENBERGER.** Mr. President, several of our colleagues on the Subcommittee on Education, Arts and Humanities had the privilege of hearing Ruth Randall testify on the recommendations of the National Commission on Excellence in Education's report, "A Nation At Risk: The Imperative for Educational Reform." Ruth is the commissioner of education in Minnesota, and has vast expertise in the Minnesota school system.

I was captivated by her perception of the role of the Federal Government in promoting quality education in our schools.

Mr. President, I ask that her testimony be printed in the RECORD, so that my colleagues have the opportunity to, also, review her testimony. I hope we share her common goal of improving and enhancing education for all learners.

The material follows:

TESTIMONY BY DR. RUTH E. RANDALL BEFORE THE U.S. SENATE SUBCOMMITTEE ON EDUCATION, ARTS AND HUMANITIES, JULY 26, 1983

To: Hon. Robert T. Stafford, chairman, and Members of the U.S. Senate Subcommittee on Education, Arts, and Humanities

Thank you for the invitation to testify before the Subcommittee on Education, Arts and Humanities. I am Ruth Randall, Commissioner of Education in the State of Minnesota since July 1, 1983. For two years immediately preceding July 1, I was the Superintendent of Schools in Independent School District No. 196, Rosemount/Apple Valley, Minnesota, a suburban school district of 13,200 students.

#### FIRST QUESTION

In response to your first question of how education excellence is achieved in the school system of which I have recently been a part, I submit this answer:

Education excellence is a result of cooperative efforts of students, teachers, administrators, support staff, board of education members, parents, and citizens. There must be cooperative efforts between students and teachers.

A school district must have a mission statement from which the goals are developed and the expectations set. In Independent School District No. 196 our mission statement was "Our mission is to treat each learner as a unique individual with unique potential whose limits he or she will ultimately determine". This statement was displayed on the walls of every classroom, teaching station, principal's office, custodian's receiving room, secretary's desk, executive office, and in the bus garage.

Each of the 1,500 employees was responsible for knowing and understanding the mission. Each was also responsible for helping to make the mission a reality in the district.

The district's long range plan from 1978 to 1983 focused on 3 major areas:

1. The development of teaching using the computer as both the object and means of instruction.

2. Staff development whereby teachers, administrators, and support staff improved and enhanced their skills and abilities.

3. Home-school-community relations whereby teachers and parents developed two-way communication on a continuing basis.

All 1,500 employees and 51,000 citizens were invited to participate in the determination of the strategies and tactics to carry out these goals. Even though all did not choose to participate, much appreciation was expressed for the opportunity to do so.

High expectations were set for teachers, other employees, and the learners. The supportive climate within the district made it possible for the teachers to spend their physical energy, emotional energy, and mental energy on teaching. The teacher is the most important person in achieving educational excellence.

Interested parents and citizens who cared about the quality of the schools were a strong part of the supportive climate in which the teachers and learners worked.

The high self concept on the part of the teachers who "knew they had an important job" contributed to the atmosphere within the district. The teachers were truly role models for the students in this respect.

Even though we worked very hard at excellence in education in Independent School District No. 196, we knew that change was necessary in the schools as we moved from the industrial society to the information society. We believed that change within the institution was no longer sufficient. The institution itself must change.

During the 1982-83 school year all teachers, other staff, students, parents, and citizens participated in developing a strategic



vision for institutional change. The vision included 3 parts:

I. Restructuring of Teaching and Learning: The purpose of education in the 80s must be determined and affirmed by all those involved. After knowing the why, the questions of who, what, when, where, and how of education in the 80s need to be answered. Then the standards and expectations must be set.

II. Management Practices: Participatory management calls for clear goals, participation, and honesty in using the input of others. Decentralization allows for those most affected by decisions to participate in making the decision. School based management provides opportunities for teachers, students, principal, parents, and citizens to make decisions regarding curriculum, staffing, and expenditures of general fund and capital fund dollars for their individual schools.

III. Extending the Financial Date: Wanting and doing so included—

(1) Establishing a 196 foundation to receive gifts and grants.

(2) Learning about regenerative funding and how to act on the knowledge.

(3) Developing school business partnerships in which the business, the school, and the teacher are partners.

(4) Assisting the teacher or other employees to become intrapreneurs or entrepreneurs.

Since ideas are the strategic resource and intelligence is the transforming agent in the information society, we believe in the involvement of others in this era of self help and self reliance. Therefore we began cooperative endeavors with the colleges and universities in the metropolitan areas; with the pastors and priests within the school district boundaries; with the cities and township leaders in our 110 square mile district; and with the presidents of the service clubs, chambers of commerce, and athletic associations.

These three components of the strategic vision restructuring of teaching and learning, management practices, and extending the financial base were in various stages of design, development, implementation, and evaluation in the Independent School District No. 196 when I accepted Governor Rudy Perpich's invitation to become the Commissioner of Education in Minnesota on July 1, 1983.

#### SECOND QUESTION

In response to your second question of steps which need to be taken to insure educational quality with reference to the recommendations of the National Commission on Excellence in Education's report, "A Nation At Risk: The Imperative for Educational Reform," I submit the following answer:

I support the beliefs upon which the recommendations are made, namely:

(1) That everyone can learn.

(2) That everyone is born with an urge to learn which can be nurtured.

(3) That a solid high school education is within the reach of virtually all.

(4) That life-long learning will equip people with the skills required for new careers and for citizenship.

I support Recommendation A on Content but I would add requirements for the Liberal Arts.

I support Recommendation B on Standards and Expectations.

I support Recommendation C on Time.

I support the concept within Recommendation D on Teaching, namely that the

preparation of teachers should be improved and that teaching should be a more rewarding and respected profession.

I support Recommendation E on Leadership and Fiscal Support.

I believe, however, that the Implementing Recommendations in A, B, C, and E and the 7 recommendations in D on Teaching should be the subject of dialogue by all those affected before action is taken. The opportunities for dialogue should be immediate and conducted in an organized fashion so that all of those who wish to be involved have that opportunity. A timeline for dialogue and subsequent action should be set. The dialogue and action should occur at the local and state level as well as at the national level. Real change will occur at the grass roots level when one leader, one school district, one school board, one college or university, and/or one state determine they will act.

If I may be presumptuous, I would submit to you an action that is in addition to the recommendations in the report. Changes need to be made within the institution of schools, but the institution itself needs to change.

Of the three primary institutions of the church, home, and school, the church and home have undergone dramatic changes in the past 10 or 15 years, but the schools have not changed. We are still functioning as schools of the industrial society even though we have moved into the information society.

#### THIRD QUESTION

In response to your third question of the role federal government should play in promoting educational quality in the United States, I submit the following answer:

The federal government should exert leadership so that all citizens know that education is basic to all that we do in our country. An educated populace is necessary to function as citizens in our political system; to provide workers and consumers for our economic system, and to develop as individuals. The educated individuals will contribute to the quality of life for themselves and for all of us.

If the federal government supports with dollars, I agree with the areas as stated in Implementing Recommendations 3 and 4 Recommendation E. These areas include meeting the needs of:

(1) the gifted and talented;

(2) the socioeconomically disadvantaged;

(3) minority and language minority students;

(4) the handicapped.

They also include:

(1) protecting constitutional and civil rights for students and school personnel;

(2) collecting data, statistics, and information about education generally;

(3) supporting curriculum improvement and research on teaching, learning, and the management of schools;

(4) supporting teacher training in areas of critical shortage or key national needs;

(5) providing student financial assistance and research and graduate training.

However, I would like to offer a significantly different approach to federal support with dollars. Federal collection of money for these programs and its flow and distribution back to the programs' beneficiaries does not allow for the use of the two principles of leverage and accountability.

**Leverage.**—One consequence of federal taxation may be called the leverage or multiplier effect. An example of this effect is demonstrated by discussion of human cap-

ital development. Dollars left in the private economy (whether they be used to purchase a newer car or simply left in the investment portfolio of a rich person) are leveraged or multiplied to benefit others in the chain of purchase. They stimulate production, effort, and economic activity, and their nominal number is actually multiplied by a factor depending on the efficiency of their usage.

The same dollars collected for taxes and used to fund educational or other governmental programs are actually subtracted from and divided in their effectiveness. In many cases their effect is to diminish incentive on the part of the eventual recipient and thus, in these cases, have little if any, redeeming value. When the development of human capital is the aim, the means has severely thwarted the goal and is virtually contradictory.

Additionally, in the current national situation federal dollars are extremely difficult to come by. In the light of the certain national catastrophe and the private economy which will result from the expansion of the federal deficit, it is also extremely dangerous to tax further for any types of federal programs.

**Accountability.**—in any discussion of federal funding, it is helpful to destroy the myth of "vanishing local resources," i.e., individual persons and businesses. If these local sources are drying up for state collection purposes then they are surely drying up for the federal government as well. The reality is that education dollars are there. There are discretionary dollars to be spent on education and the real issue is accountability. The legislation and funding for educational purposes must be as close to the action as possible if they are to be effective. The siphoning off of the funding due to the rising cost of administering federal programs should also be mentioned. I do not believe the collection and expenditure of dollars by the federal government is cost effective.

I would not, however, want Minnesota to be left in a vacuum. Federal taxation and policy for education should be reduced across the board so Minnesota citizens are not forced to pay for education projects and programs in other states if we are going to use our state resources to support Minnesota's educational system.

Let me make absolutely clear that I believe federal taxation should be reduced for all other projects and programs supported by the federal government. Money should not go to other areas in lieu of education.

I thank you for this opportunity to testify. I look forward to further interaction with you and other members of Congress. I believe we have a common goal of improving and enhancing education for all learners.●

#### THE PUBLIC SCHOOL SYSTEM

● **Mr. DURENBERGER.** Mr. President, I recently came across an article written by one of our colleagues in the House, Representative BILL GOODLING. I found his approach to education enlightening and thought provoking. I hope my colleagues find the article as interesting as I did.

I ask that Representative GOODLING's article, "Will Congress Do More Harm Than Good on Education?" be printed in the RECORD.

The article follows:

# WILL CONGRESS DO MORE HARM THAN GOOD ON EDUCATION?

(By Bill Goodling)

Fingers are being pointed. Words are flying. And once again, Congress and the country find themselves caught in the emotional crossfire of the latest "hot" issue: the ills of the American public school system.

As a former educator, I am excited to see education in the national limelight after many years of nonchalant attention. As a legislator, I fear the fallout.

When the public din has quieted and political posturing has ceased, legislators and taxpayers alike will be faced with the next-morning realization that there is no quick-fix, no miracle and no guarantee of success to be purchased by a fast infusion of federal dollars. Yet, I fear that before this homely truth has emerged, Congress, in its customary manner when confronted by a loud public outcry, will have dumped a wheelbarrow full of money in the general direction of the problem and closed its eyes, hoping for the best.

The Twentieth Century Fund, in its recent report to the nation on the state of public education, asked a single question that cuts to the heart of the issue: "Why, despite spending more per student than every other advanced nation, is there a growing gap between the goals and achievements of our schools?"

The answer, includes changes in the American family, the commitment of public education to the teaching of the many rather than the few, the dilution of a strong core curriculum. The overriding message from the Fund's provocative inquiry is that it is perhaps in the intangibles that both the problem and its solution lie.

We can't legislate the chemistry between a student and a teacher. We can't mandate a home environment where discipline and the pursuit of excellence are 'givens'. And we can't sit on Capitol Hill and carve into stone a magic formula to guarantee that every Johnny and Jane can and will study the 'right' amount of literature, math, science, etc. Every child is unique, every school different in character.

Recognition of this singularity and the richness that such diversity can bring to the educational process is the key to understanding that education is best left in the hands of the educator—not the legislator.

What we can and should do—parents, citizens, legislators—is to continue to give education a good deal of attention. Debate, if not translated into rash congressional action, will give the country's educators the courage, incentive and support needed to try new solutions—tougher graduation standards, merit pay for excellent teachers, unconventional class and school-day structures.

Fundamental to this discussion, however, must be the implicit recognition that what works for a school in the Bronx may not work in rural Mississippi, and that to try to dictate a single solution from the federal level for them both or for any other school is to commit a grave error.

In making education a national priority we must take care not to fall prey to the illusion that such a commitment is best-served, or even well-served, by the promulgation of a sweeping national education agenda that presumes to be all things to all people.

What form, then, should our national commitment take? Where do we draw a clear line between appropriate federal support and well-meaning meddling?

We begin, I think, by acknowledging that the kinds of strings that are customarily attached to federal aid can readily strangle the local initiative and inventiveness vital to the improvements we seek. This is not to say that federal support is not necessary, or that such accountability is unwarranted.

The federal commitment, however, must be carefully balanced against the regulatory baggage that goes hand in hand with federal involvement. If our problem, indeed, lies less in dollar amounts than in the accompanying strictures that can stifle flexibility and creative solutions within the walls of the schools themselves, then let us by all means proceed with great caution in dishing out with both hands more of the same.

Let's give schools and communities a chance to look within themselves and to each other for their cures—with our help—before we drown them in high-sounding proclamations about when is right and good for all schools, everywhere.

Instead of shadowboxing with those intangible factors that money cannot fix—home environment, student-teacher chemistry—we in the Congress can foster with a little seed money the kind of experimentation in curricula and standards in our public schools that is rooted in local ingenuity and practicality. Legislation that I recently introduced in the House and that John Heinz initiated in the Senate provides a reasonably small yet potent source of funding for schools willing to pioneer new standards of excellence in the classroom.

For the 500 institutions whose proposals for change receive the blessing of the bill's grant program, such restrained federal participation presents an unparalleled opportunity to innovate teaching and administrative methods with government support, but without government red tape. Over the three-year life of the program and an expenditure of \$50 million—a small investment in congressional terms—we can tap the extensive pool of expertise at work daily within the walls of our educational institutions. From them we can learn what works and what doesn't, what helps and what hinders—and pass along successful formulae.●

## FOURTH PRESIDENTIAL CERTIFICATION FOR EL SALVADOR

● Mr. PERCY. Mr. President, the Senate Foreign Relations Committee scheduled hearings on the President's fourth certification on El Salvador for Thursday, August 4, in the afternoon. Due to intense committee and congressional interest in recent Executive policy initiatives in Central America, the committee found it desirable to schedule an open hearing with the Secretary of State on the subject of U.S. policy in Central America. The session was very useful as members were able to engage in a candid exchange of views with the Secretary. I strongly recommend the Secretary's opening statement to my colleagues in the Senate.

Unfortunately, because of the press of time on the committee calendar and the very active floor schedule here in the Senate, I was obliged to cancel the scheduled public witness session of testimony on the situation in El Salvador. I believe the reports on the

human rights situation in El Salvador, in particular, would be of interest to the Senate, and therefore, Mr. President, I request that the testimonies of Mr. Aryeh Neier of Americas Watch Committee, Mr. Michael Posner of the Lawyers Committee on International Human Rights, Mr. William C. Doeherty of the American Institute of Free Labor Development, AFL-CIO, Charlie Clements, M.D., M.P.H., Senior Fellow for Center for Development Policy, and Col. Samuel T. Dickens USAF, retired, be printed in the RECORD.

The material follows:

### TESTIMONY OF ARYEH NEIER, VICE CHAIRMAN, AMERICAS WATCH

My name is Aryeh Neier. I am Vice Chairman of the Americas Watch Committee and Vice Chairman of the Helsinki Watch Committee. I appear here today on behalf of the Americas Watch.

As members of these committees are aware, the Americas Watch has monitored closely the human rights situation in El Salvador. During the past two years, at six month intervals, we have issued four comprehensive reports on human rights in El Salvador. In each instance, those reports were based in part on information gathering visits to El Salvador. I took part in such visits in connection with the preparation of two of those reports. Most recently, I was in El Salvador a month ago to gather information for the report that we published on July 19, 1983. I wish to submit that report as an appendix to this testimony.

On the basis of our close monitoring of developments in El Salvador, the Americas Watch believes that the human rights situation is steadily worsening. The statistics tell part of the story. During the first six months of 1983, the human rights monitoring office of the Archdiocese of San Salvador tabulated 2,527 murders by government security forces and paramilitary groups allied with them and 326 disappearances after abductions by those forces. Since those who do not reappear within fifteen days after such abductions never reappear, these two figures must be combined to arrive at the known total of murders by government forces during the first half of 1983: that is 2,853 murders. This is a higher rate of murders than in 1982 and it brings the total known to have been murdered to over 38,000 (that is more than 36,000 murders and more than 2,200 disappearances) by government forces and paramilitary groups allied to them in less than four years. One finds oneself searching for ways to present such staggering figures in a way that conveys their full horror. It can't be done. But perhaps one way to think about it is to realize that the government of El Salvador has murdered nearly one out of every hundred of its citizens and, if murders were distributed evenly among families, approximately one Salvadoran family in twenty has had one of its immediate members murdered by the government. At least another twenty Salvadorans out of every hundred have fled their homes during the past four years, some of them seeking refuge outside the country, some hundreds of thousands getting no further than a displaced persons camp within the country. Moreover, our finding that the situation is steadily worsening is not based only on the misery that has been inflicted on the Salvadorans up to now.



It is based on the realization that there is no prospect for any improvement. The only prospect is that many thousands more will be murdered by the Salvadoran government's security forces or will disappear after abductions by those forces. Many thousands more will be tortured by those forces. And tens of thousands more will be driven from their homes by those forces.

The reason that the prospect is so dismal is that the armed forces of the government of El Salvador engage in murder, abductions, torture and forced displacement of the population as a matter of policy. Their apparent intent is to exterminate those Salvadorans suspected of harboring views that are contrary to those of the government and to terrorize Salvadoran civilians so that they fear to permit guerrillas to survive in their vicinity.

In response to pressure from members of Congress, the Reagan Administration has made some efforts to persuade the Salvadoran armed forces to change their ways. Those efforts have failed and will continue to fail because the Reagan Administration has made it plain that its support may be counted on under any circumstances. Accordingly, the Salvadoran government has responded to pressure to improve its human rights performance with a few gestures that deal with marginal matters. The central human rights problems of murder, abductions, torture and displacement of population are unaffected, however. The certainty that U.S. support will continue makes it unnecessary for the armed forces of El Salvador to change their ways on these matters in response to pressure from the United States.

Not only are the Salvadoran armed forces certain that U.S. support for them will continue no matter how many murders they commit, they are equally confident that the United States will continue to put as good a face as possible on their practices. They have every reason to be so confident. Four times, the Reagan Administration has been required by U.S. law to cut off military aid unless the Salvadoran government is making concerted and significant effort to protect internationally recognized human rights and unless the Salvadoran government is controlling all its armed forces to end torture and murder by those forces. Four times, the Reagan Administration has confronted situations in which the conditions of U.S. law cannot be said to be met by any conceivable standard. Yet, four times the Reagan Administration has duly certified that the conditions of U.S. law have been met.

The July 20, 1983 certification is typical. The information cited in the document itself makes it plain that the conditions of U.S. law are not being met in El Salvador. Yet the document's conclusion is offered in disregard of that information.

As of the information in the document, much of it is misleading and much of it is just wrong. Here are some examples:

The certification says that the government of El Salvador "is committed to . . . building a lasting democratic order." Actually, the political leadership of the center and the left in El Salvador is being murdered or driven from the country. (See pages 37-42 of our July 19, 1983 Report.) Accordingly, it is nonsense to talk of the establishment of a democratic order.

The certification says that a government Peace Commission "has made several public appeals to members of the Revolutionary Democratic Front (FDR) . . . to find mutu-

ally acceptable ways for them to participate in the democratic process, including this year's presidential elections." Actually, such appeals are meaningless so long as incidents take place such as the one in November 1980 when the security forces surrounded a high school where six FDR leaders were holding a press conference, kidnapped them, tortured them, mutilated them and murdered them; or the incident in October 1982 when the security forces kidnapped 17 FDR leaders, initially denied that they had been kidnapped and then acknowledged the imprisonment of eleven. Six remain disappeared. (See pages 30-36 of our January 19, 1983 Report.) Any FDR leader who stepped forward to take part in the electoral process could anticipate a similar fate.

The certification says that "Salvadoran organizations which monitor human rights confirms this downward trend in the level of violence over the past two years." This is false. There has been no downward trend. The number of political murders by the security forces has remained steady at the level of about a 100 a week for the past year and a half. The number of disappearances after abductions by the security forces has remained steady at the level of about 40 a month for the past year and a half except that the number jumped sharply in May and June 1983, averaging nearly double as many as previously.

The certification imputes the difficulty in controlling human rights violations by the armed forces to the fact that "the Salvadoran legal system is in a state of virtual collapse." Actually, this is a dodge. It implies that abuses are committed by rogue members of the security forces. In fact, the quantity of murders is so enormous that it is plain that these murders are committed as a matter of armed forces policy.

The certification has nothing to say about the prosecution of members of the armed forces for human rights violations against Salvadorans, only about disciplining or prosecution for common crimes. Yet prosecutions for human rights violations are a central concern of the certification law. In the Americas Watch reports for July 19, 1983 and January 20, 1983, we demonstrate that the Department of State has engaged in deception on this question. Apparently, having been caught, the Department of State left out the subject entirely in the July 20, 1983 certification.

The certification says that reports in the Salvadoran press, from which the U.S. Embassy in San Salvador gets the figures on murders and disappearances that are set forth in the certification by the Department of State, "are subject to a degree of under-reporting, but they do accurately reflect trends." Actually, they are subject to gross under-reporting and they accurately reflect nothing. (See pages 77-81 of our July 19, 1983 Report.)

The certification says that, "The armed forces in general, are becoming more sensitive to the treatment of both civilians and prisoners." This is false. The sharp rise in disappearances after abductions by the armed forces in May and June 1983 demonstrates that civilians and prisoners face even greater risks than ever if they fall into the hands of the armed forces. (See pages 24-7 of our July 19, 1983 Report.)

The certification says that the human rights monitoring office of the Archdiocese of San Salvador "monitors figures on deaths from *Radio Venceremos* (the guerrillas clandestine radio station), denunciations from family members, and other human rights

groups' statistics. These figures may be subject to duplication of reporting from other sources. They may also be inflated since there is no distinction made between press reports of guerrillas killed in action and civilian deaths attributed to political violence." This is false. The information compiled by the Archdiocese of San Salvador and published in its monthly reports on political violence is exclusively derived from primary sources—that is testimony taken by the office from eye-witnesses and family members. Names, ages, residences, places and circumstances of killings and abductions are provided along with attributions to the forces responsible, whether government, paramilitary, unknown or guerrilla. Many widely publicized murders are not included in the Archdiocese's reports because the human rights monitoring office is unable to obtain first-hand testimony from family members or eye-witnesses.

In making this false assertion about the human rights monitoring office of the Archdiocese of San Salvador, the Reagan Administration continues its practice of smearing the human rights groups that, at great risk, bring the bad news about the human rights situation in El Salvador.

Again, though the certification document itself is replete with misinformation and distortions, the information it does contain demonstrates that certification is not warranted. Even though the Department of State tries hard to paint a picture of human rights progress, nothing can disguise the fact that El Salvador is a human rights disaster area and that the situation is getting ever more disastrous.

#### TESTIMONY OF MICHAEL POSNER, EXECUTIVE DIRECTOR, LAWYERS COMMITTEE FOR INTERNATIONAL HUMAN RIGHTS

Mr. Chairman, thank you for inviting me to testify. My name is Michael Posner. I am the Executive Director of the Lawyers Committee for International Human Rights in New York. For more than two and one-half years the Lawyers Committee has served as legal counsel to the families of the four United States churchwomen who were murdered in El Salvador in December 1980. My comments today reflect the families' continuing frustrations over the failure of the Salvadoran Government to properly investigate and prosecute those responsible for this horrible crime, and their growing concerns about our own government's ineffective response to these failures.

Earlier this month I visited El Salvador on behalf of the four families. I was accompanied by Scott Greathead, a member of the Lawyers Committee Board of Directors. While in El Salvador, we met with a number of Salvadoran Government officials, including Dr. Mario Adelberto Rivera, the Fiscal General (Attorney General) of the Republic, and Bernardo Rauda Murcia, the presiding judge in the case. We also met with private lawyers and experts on the Salvadoran legal system, as well as United States Embassy officials.

Based on our visit, we seriously question the conclusions contained in the State Department's recent certification report on El Salvador. While that report concludes that "the Government of El Salvador appears to have made a conscientious effort to prosecute these murders," we believe that the Salvadoran prosecutors have yet to take basic steps necessary to preparing a successful prosecution. While the State Department concludes that "the Salvadoran Government is making good faith efforts to

bring to justice those responsible for the [churchwomen's] deaths," we continue to find a disturbing pattern of official indifference, incompetence and ill-will—attitudes that prevent successful resolution of this case.

#### INADEQUACY OF SALVADORAN PROSECUTORS

Based on our discussions with the prosecutors handling the churchwomen's case, we believe that they lack both the will and the ability to successfully prosecute those responsible for the murders. Seven months ago, during an earlier visit, we first learned that the Fiscal General of El Salvador was unaware of key evidence developed by and in the possession of the FBI—including a death threat against the church in Chalatenango, where two of the churchwomen worked. According to officials in the U.S. Embassy in El Salvador, this death threat had eight clearly identifiable sets of fingerprints on it. The prosecutors have little interest in obtaining this and similar evidence, and are doing little to ensure that existing evidence will be admissible at trial. For example, they have done nothing to introduce into the court record a thumbprint of Colindres Aleman, the ringleader of the five imprisoned National Guardsmen. This print was taken from the van in which the women were riding on the night of their murder. Because the FBI, and not Salvadoran authorities, conducted the fingerprint analysis, this evidence is not now admissible.

In our visits to El Salvador, we have also learned that the prosecutors have made no apparent effort to develop a plausible theory as to the motive for the crime or a response to anticipated defense. Although the Fiscal General conceded that "acting on higher orders" is likely to be a defense, he makes it clear that he does not intend to investigate existing evidence suggesting there were superior orders to apprehend the churchwomen.

During our most recent visit last month, we found that the prosecutors, have done almost nothing in the past six months to advance the case to trial. Virtually the only preparation that has been done has been the result of U.S. initiative and action, such as the appointment of Judge Harold Tyler to help identify evidentiary leads and the FBI's replication in El Salvador of ballistics tests it has previously conducted in the United States. Similarly, last weekend the State Department and the FBI brought a key witness to El Salvador, Dagoberto Martinez Martinez, who had previously given important testimony to the FBI in Los Angeles which was inadmissible until it was repleated in El Salvador. However, only the Salvadoran prosecutors responsible for the case can effectively use the evidence developed by the FBI, Judge Tyler and others. Those now assigned to the case are clearly incapable of doing so.

The complete indifference of the Fiscal General's office to the success of the case is reflected in its present staffing arrangement. Almost all of those working on the case are law students. While in El Salvador, we were reliably informed that one of those students, Bachiller Leonel Romero Cordero, has been acting as a coordinator of the case despite the fact that he was once removed from office for accepting a bribe from the defense attorney in connection with a trial he helped prosecute.

#### THE NEED FOR A SPECIAL PROSECUTING ATTORNEY

Mr. Chairman, I could go on at length cataloging the deficiencies that have

marked the Salvadoran Government's handling of the churchwomen's case.<sup>1</sup> However, anything else I or anyone familiar with the case could tell you simply adds weight to what is now an inescapable conclusion: Because of the prosecutor's unwillingness to conduct a proper investigation or to adequately prepare for trial, it remains unlikely that anyone will ever be successfully prosecuted for these crimes. Rather than belabor a point that has become obvious—and indeed was evident when I testified six months ago during the last certification hearings—I would like to suggest one important step that can be taken to break the perpetual cycle of inaction that has prevented this case from moving forward.

Mr. Chairman, I strongly urge you and the members of this committee to support the appointment of a special prosecutor by the Government of El Salvador. This week, Senators Leahy, Lautenberg and Sasser introduced a Senate resolution calling on the U.S. Government to urge the Salvadoran Government to make such an appointment. I have a copy of that resolution which I ask be inserted in the record of these hearings. I understand that a similar resolution is being introduced in the House. The families and I very much welcome this initiative because we think that the appointment of a special prosecutor is essential to successful resolution of this case.

Working with the full authority of the Government of El Salvador behind him, a special prosecutor would be in the best position to ensure that the case is properly investigated and tried. Without a special prosecutor, we seriously doubt that a proper investigation and successful trial will ever take place.

The appointment of a special prosecuting attorney in this case would also serve as a symbolic acknowledgment by the Government of El Salvador that it intends to prosecute those who are responsible for the murder of innocent civilians, even in cases where members of the armed forces are involved. In this respect, such an appointment would represent an important step toward curbing abuses by members of government security forces, who, according to the recent certification report, presently "act without fear of official reprisal."

The churchwomen's case may provide the only opportunity to begin to address the problem of unrestrained violence perpetrated by government security forces in El Salvador. During the last three and one-half years, when 35,000 innocent civilians, including El Salvador's archbishop, have been killed, only the cases of murdered Americans have been pursued; only the churchwomen's case is currently being pursued with any real hope of success.

Accordingly, the demand to fix responsibility in this case has become part of a far wider demand that elementary respect for human rights and human life be restored and recognized by those who wield the force of government in El Salvador. In view of the symbolic importance this case has assumed, the consequences of a failure to reach a just conclusion would resound far beyond the halls of Judge Rauda's court. We cannot afford the price of further violence that will be exacted if we fail to do everything in our

power to achieve justice in this case. Those in the armed forces of El Salvador must begin to recognize that they can no longer systematically violate the rights of innocent civilians confident that the civilian government will never impose sanctions against them.

#### THE ROLE OF THE U.S. GOVERNMENT

Congress has recognized the importance of meaningful progress in the churchwomen's case as a means of advancing justice and checking unrestrained violence in El Salvador. Unless such progress can be shown, the certification law therefore prohibits further U.S. aid to El Salvador.

The Administration's repeated certifications that the Government of El Salvador has "made good faith efforts" to investigate the churchwomen's case and to "bring to justice all those responsible" for their murders has made a mockery of that law. By endorsing the totally unacceptable efforts of Salvadoran officials, this certification has also sent an unmistakable signal to the Government of El Salvador: No matter what happens—or fails to happen—in the churchwomen's case, the United States will continue to provide the certification necessary to continue the flow of aid to El Salvador. The Salvadoran Government cannot doubt this when our government certifies progress in the case even while it acknowledges the hopelessness of obtaining a successful resolution.

Convictions in serious criminal cases, in particular those with political overtones of any kind, are virtually unobtainable. . . .

Nor can there be any doubt that the Administration's determination to "certify at all costs" has destroyed our ability to promote the churchwomen's case in particular or respect for life generally in El Salvador. Privately, Salvadoran officials repeatedly note that they do not believe the U.S. will cut off aid regardless of what human rights violations are committed in El Salvador.

This perception destroys any incentive on the part of the Salvadoran Government to promote respect for human life. The Government of El Salvador is essentially a military government. Our capacity to influence that government's respect for human life is thus limited to our ability to condition military aid on a demonstrated commitment to promote human rights.

#### CONCLUSION

In conclusion, I believe that there are concrete steps our government can take to promote progress in the churchwomen's case and, by doing so, to help restore respect for human life throughout El Salvador. First, the incompetence, indifference and ill-will, that have characterized the prosecutors' handling of this case make it imperative that a capable, independent special prosecutor be appointed by the Government of El Salvador. Congress has the opportunity to make an immediate, urgently-needed, and significant impact on the progress of this case by adopting the resolution urging the United States to call upon the Government of El Salvador to make such an appointment.

Second, our expressions of concern must ultimately be coupled with a credible threat to terminate U.S. aid if the Government of El Salvador fails to take concrete steps to end human rights abuses. This administration's cynical, automatic certification of Salvadoran "good faith" has led to disastrous results: it has destroyed any incentive for the Government of El Salvador to control the abuses of its security forces, and it has

<sup>1</sup> I attach as an appendix a letter that Scott Greathead and I recently sent to Assistant Secretary of State Langhorne Motley summarizing our most pressing concerns about the investigation and prosecution, and ask that the letter be admitted into the record of this hearing.



weakened our international reputation and credibility. Congress must not abandon this opportunity to use the leverage and moral authority of the United States to pressure Salvadoran leaders to bring to justice those responsible for the murders of U.S. citizens and 35,000 other civilians. Therefore, Congress should make it clear that the Government of El Salvador will not receive further arms and money if it continues to flout minimum standards of human rights.

STATEMENT OF WILLIAM C. DOHERTY, JR., EXECUTIVE DIRECTOR, AMERICAN INSTITUTE FOR FREE LABOR DEVELOPMENT

Mr. Chairman, it is indeed an honor on behalf of the AFL-CIO to have been invited again to testify before this distinguished Committee. We have prepared this statement in consultation with Dr. Roy Prosterman, of the University of Washington, and Ms. Mary Temple, of the Land Council, who concur with the land reform section of this text. Most importantly, this presentation expresses the general views of the Unidad Popular Democratica (UPD) with whom we are in constant contact. The UPD has framed a declaration which we have attached to this document (Attachment No. 1).

El Salvador seems to be a problem for the United States that simply will not go away. That may be true for some time to come and, of course, it is only one part of the larger problems of Central America. But if events in El Salvador and the difficult foreign policy choices which they bring are a frustration to U.S. citizens and their representatives in Congress, please believe us when we tell you that those frustrations are shared by, and are even much more important to, the millions of decent democratic Salvadoran citizens who want nothing more than to live in peace in a society which democratically reflects their best interests. The average Salvadoran wants nothing to do with the solutions of either the extreme right or the totalitarian Marxist-Leninist left.

The problem for the AFL-CIO is how best to support the development of the democratic center represented in great part by El Salvador's free trade union movement which has rallied under the banner of the Unidad Popular Democratica (UPD). The problem for U.S. foreign policy is how to support democratic pluralism in El Salvador as the only effective force that can democratically bring about the trade union center, but also other centrist forces in El Salvador who are desirous of necessary social, political and economic change.

Democratic change, which began in October 1979, and is just beginning to take hold in El Salvador is the only true revolution; the idea that men and women of a nation have the right and duty to choose their leaders and an equal right to periodically change them. The AFL-CIO is proud to be a part of this revolutionary process and proud of the democratic trade unionists with whom we work in El Salvador to this end.

#### GENERAL POLITICAL ANALYSIS

The so-called revolutionary movement of El Salvador's radical left, represented by the guns of the FMLN, promises only another variety of totalitarian rule. On the other extreme of the political spectrum are powerful forces, both in and out of the Salvadoran governmental structure, which, if successful, would return the country to the despotic political rule which existed prior to October of 1979.

Although a threat not to be lightly dismissed, the armed Marxist-Leninist insur-

gency has not shown the ability to attract large numbers of Salvadorans to its cause. Three years ago, they claimed only the same number of guerrillas under arms that they do today (5,000-7,000) despite the massive military support from Cuba and Nicaragua. Meanwhile, the citizens of El Salvador completely rejected the guerrillas (simply by the act of voting) as a political alternative in the March 1982 elections. If the extreme left could be convinced to participate in the forthcoming elections (and we hope they will), we do not believe that they will show sufficient support to upset the democratic process.

#### NEGOTIATIONS/DIALOGUE/POWER-SHARING

We think further, that the FMLN/FDR have made the same analysis and have come to roughly the same conclusion. Hence we have seen a renewed interest by the extreme left in the possibility of negotiations that could possibly lead to a sharing of government power. (FDR representatives are currently saying that their interest is only to have "open" negotiations). The AFL-CIO and the UPD positions on "power sharing" has not changed since our last appearance before this Committee. We continue to feel that only an honest electoral process will provide the people of El Salvador with the best possibility of determining their own political solution.

Thus, in general we view the FMLN/FDR as having limited options. Their more radical leadership may continue to fight a "prolonged war" for some time to come with a resultant tremendous loss of life and physical damage, but, unless there are great changes in the military situation, their best hope is for military stalemate. A decision to attempt to gain power through the electoral process would, in our opinion, doom them to an ineffective role in governing the country. It is quite natural, then, that they would like to participate in negotiations for the purpose of sharing power.

There is an added incentive for the democratic forces currently associated with the guerrilla left, the frustrated democrats, to want to negotiate toward this end. They know that in the event of a guerrilla military victory, their role would be ineffective and short-lived as the men with the guns would soon claim their right to rule and impose their Marxist-Leninist philosophies on the people of El Salvador—just as have the Sandinistas in Nicaragua.

#### THE FORTHCOMING ELECTIONS

As important as the next elections will be in the development of the democratic process, one should not feel that they will quickly end the war, or reduce by themselves the human rights abuses, or immediately guarantee the success of the reform programs. Much obviously depends on the outcome of the elections, and the extreme right is continuing to increase its strength and influence. The most important aspect of the forthcoming elections will be the possibility of the establishment of a government that can and must accept the responsibility of governing in the best interests of the entire Salvadoran people. Only a strongly elected government with a strong popular mandate to rule can fulfill this risk.

The risks are great, and the desired outcome is by no means assured. The greatest risk is that the far right will emerge victorious and continue to try to destroy the reforms. And no one can assure that even a centrist government that emerges from the next election will have received a mandate from the people to rule strongly.

There are many democratic forces today in El Salvador which are calling for a postponement of elections until 1984 in order to have more time to prepare an adequate campaign. Normally, democrats do not seek the postponement of elections, but this is, of course, an exceptional period in Salvadoran history. The Unidad Popular Democratica (UPD) is among those organizations favoring a postponement. An explanation is in order.

The members of the Assembly who were elected in March 1982 legally had only one major task before them—to write a new constitution. They formed a *Constituent Assembly*. After more than fifteen months in office, a new draft constitution has only recently been made public and it has come under very serious criticism from various sectors of El Salvador, including the trade union movement.

(The following are examples of the substance of very controversial clauses in the draft: The land reform program might be killed by guaranteeing unrestricted land rental, only political parties could take part in political debate, and the Army would be responsible for the protection of citizens' human rights as well as determining whether or not the country was being run democratically).

The public debate over these and many more such issues cannot be expected to end quickly without the charge that the new constitution has been "railroaded" through the Assembly and foisted upon the country. If the citizens of El Salvador feel that there is validity to such an accusation, it will make governing under the new constitution an impossibility. Thus, to have been a productive exercise, the public debate will have to be not only allowed to continue but encouraged.

Unfortunately, an electoral law cannot be written until the new constitution is approved. Since we are, in August, only a few months away from the previously announced date of the elections, it is highly unlikely that there will be time for the public debate on the Constitution, the writing (and possible debate) on the new electoral laws, and adequate time to present a political campaign by the contending parties to the general public. For these reasons, many democratic organizations and the UPD are arguing that the election date should be postponed, but held during 1984.

We would like now to discuss some of the specific problems that we face in El Salvador for the purpose of updating this Committee on the Hammer-Pearlman-Viera murder case and the land reform program. In the process, we believe we will be explaining more fully the reasons that we have found it necessary to call attention to the resurgent strength of the Salvadoran right wing.

#### HAMMER-PEARLMAN-VIERA MURDER CASE

You may remember from our testimony to you of February 2, 1983 that in October 1982 the Fifth Penal Court of El Salvador handed down a decision on the Hammer-Pearlman-Viera murder case that the AFL-CIO considered so atrocious that we decided to make public the information that we then had available. The decision of "insufficient evidence" against Hans Christ and Lopez Sibirian was appealed to the same court, and in January 1983 the judge confirmed his previous decision. The Attorney General's office then appealed to the Magistrates Court and, in an April 29, 1983 decision, sustained the decision of the Fifth

Penal Court. Finally, the decision of the Magistrates Court was appealed to the Supreme Court where the case is now "being considered" only on grounds that a procedural error might have been committed.

Assuming that the Supreme Court finds no procedural errors in the lower courts' handling of the case, the effect of the April 29 decision is that there can be no further civil legal recourse against Hans Christ and that, with regard to Lopez Sibrian, we have one year from the date of the Supreme Court's decision (probably within the next two months) to provide still further evidence that the court would consider "sufficient." If, on the other hand, the Supreme Court does find procedural errors in the lower court's handling of the case, additional evidence against both Christ and Lopez Sibrian may again be presented to a court ordered to reconsider the case.

The AFL-CIO continues to be urged to hire an "acusador particular" but, as yet, our position on this matter remains the same as reported to you in our last testimony before this Committee. (An "acusador particular," you may recall, provides a function similar to the Attorney General's and acts on behalf of the aggrieved parties.) We do, however, constantly re-appraise this aspect of the case and have not closed the door entirely on the possible use of an "acusador particular."

Meanwhile, the two confessed murderers, the Army privates who pulled the trigger on orders from their superior officers, Lt. Lopez Sibrian and Capt. Avila have not gone to trial. The elevation of their case to the Plenary, or trial stage, may not take place until the appeal, currently before the Supreme Court, is decided upon.

As a practical matter, no further investigation (by the courts of El Salvador) of the case is possible, since the records are in the hands of the Supreme Court.

#### AFL-CIO POSITION ON MILITARY AID

The AFL-CIO continues to believe that military aid to El Salvador should be suspended until there is progress in obtaining justice in this case, as well, of course, as in the cases of the other U.S. citizens. We do not feel that anything which has transpired since our last presentation to you can be construed as progress. To the contrary, we consider that we are worse off today than we were six months ago if only because the legal delays in the case, we believe, reflect a basic unwillingness to prosecute those really responsible.

Despite our deep dissatisfaction with the handling of the case and, more profoundly, with the corruption of the Salvadoran judicial system, we should like to point out that many Salvadorans are dedicated to judicial reform, not simply because it serves to placate North Americans, but more importantly because it is they who must live under that system. Responding to the need for reform, President Magana has taken steps to set up a Commission of very distinguished lawyers whose purpose is to recommend improvements in the criminal code. The establishment of this Commission represents only the first feeble step in the right direction, but it is a move that should be recognized, applauded, and supported.

#### HUMAN RIGHTS VIOLATIONS TOLERATED BY ARMY

The AFL-CIO position has long been that real control of human rights abuses depend in large measure on the functioning of the judicial system. Thus, it is not surprising (although extremely distasteful to accept)

that such abuses have increased in the last six months. We accept as true the estimates of other legitimate human rights' organizations of an increase in non-military related violence, since we have no independent capacity to make such evaluations. With that caveat, however, we would like to make two brief human rights-related comments.

First, the UPD has again, thank God, been able to report to us that none of their leadership have recently been victimized by violence. Some have, however, received death threats and we do not believe for one moment that they are immune from the atrocities which have befallen so many of their fellow citizens. We strongly suspect that the majority of the non-combatant violence emanates from the death squads of the far right. Two weeks ago, for example, two campesino members of the Union Comunal Salvadoreña (UCS) were murdered by "unidentified armed men" in a land reform-related incident.

Secondly, since we last met with you, a group of 74 campesinos, including 18 members of the Asociación Nacional Indígenas Salvadoreños (ANIS), an affiliate of the UPD, was massacred by members of the Salvadoran Army. The killings, which occurred in the Canton de las Hojas, in Sonsonate, on February 22, 1983, have been well publicized in the press, and it would therefore seem unnecessary to recount the details at this time. In a bizarre turn of events, however, the father of one of the victims was put in jail, (subsequently released on July 26, 1983), accused of attempted murder of one of those who initiated this horrendous crime while the Army officer remains at liberty. It would seem obvious that in this case (as in the Hammer-Pearlman-Viera case), the Army is simply unwilling to punish its own. However, this case has only begun to be processed, and the campesinos are receiving the strong support of the Human Rights Commission of El Salvador. It is, therefore, still too early to make final conclusions.

Nevertheless, such actions by the Army cannot be allowed to continue, if not for obvious moral and judicial reasons, then for more down-to-earth political reasons. This is not just one more "internal Salvadoran matter" not subject to comment by the Government of the United States. This is one more example of an Army whose actions would seem to be above the law. The U.S. Administration is currently engaged in a campaign to inform the American people of the correctness of U.S. policy in Central America and El Salvador. How is the Administration going to explain away this case, the Hammer-Pearlman-Viera case, of the Catholic nuns, and (if they were more widely known to Americans), the cases of hundreds of Salvadorans who have been murdered by the death squads and/or the Army? We cannot ask the American public to understand and accept a policy of support for each element in El Salvador on the assumption that the other alternative that is offered to them will be worse, i.e., the Marxist-Leninist guerrilla leadership. The U.S. Government must even-handedly protest each and every such barbaric act and, if necessary, reduce military aid accordingly. In so doing, the U.S. would support the democratic center in El Salvador, which abhors these abuses of power every bit as much as their North American counterparts. Only by so doing will there be a possibility of soliciting the support of the American people for our efforts in El Salvador.

On balance, the Salvadoran Army is needed to defeat the guerrillas. On balance,

the Army has, in most instances, been supportive of land reform. And on balance, not every Army officer is a killer. Now equally on balance, the U.S. Government must pressure the Army to clean up its own act, and if we are accused of "intervention" in process, so be it. Such a policy will be applauded by thousands of democratic Salvadorans whom we should be supporting.

#### DEVELOPMENT OF DEMOCRACY

The democratic center of El Salvador has not been dormant during this period of change. A week ago last Sunday, the UPD organized a forum, which attracted more than 1,000 persons from all walks of life, to discuss the new constitution. The development of a commission of lawyers to propose changes in the criminal code has been mentioned. In addition, an Amnesty Commission, established by Decree 210 on May 4, 1983, actually began their work on May 17, 1983. According to the Commission, between that date and July 26, 1983, 542 political prisoners have been released from El Salvador's prisons. (However, according to UPD estimates, an equivalent number of new prisoners have been detained, leaving the situation, on balance, unchanged.)

Under the amnesty law, 339 guerrillas have laid down their arms since May. While it would be naive to think that the war in El Salvador will come to an end as a result of the amnesty decree, it certainly is a step in the right direction.

A democratic society is, nevertheless, still a goal to be obtained in El Salvador, and will remain so as long as the state-of-siege legislation is in effect. We do not believe that arbitrary arrest and jailing without a speedy trial are necessary security measures. Above all, we condemn decrees which freeze wages and declare illegal any strike by labor unions as being in the worst interest of the Salvadoran people. We also do not support strikes designed to overthrow an elected government, but believe that such revolutionary actions can be handled in ways other than by destroying basic elements of trade union liberty.

#### LAND REFORM—GENERAL

The Phase III (Land-to-the-Tiller) of the agrarian reform program, whose future was in doubt when the AFL-CIO last appeared before this Committee, is alive, but not well. It continues to be beset with serious problems. You may remember that, at that time, there was a real threat that the Constituent Assembly might not provide the legislative authority to continue Phase III. After several weeks of intensive lobbying by the Unidad Popular Democrática (UPD), the Assembly voted 36 to 24 in favor of extending the program to December 31, 1983. While this was a victory for the Salvadoran campesinos, and for those who support constructive economic and social reforms in El Salvador, the victory did not signal by any means the end of landlord resistance to the process.

The statistics of the Phase III program (Attachment #2) indicates a mixed performance by the government of El Salvador over the last six months, with both negative and positive factors. For example, the "front end" of the program, the taking of new title applications, has been up and down. In January and February, applications reached new highs, but during the ensuing four months there was a continuous steep decline. A number of factors at least partially explain this drop in applications. Most revolve around managerial decisions by FINATA regarding the use of their limit-



ed resources. FINATA until very recently lacked the technical and financial resources to carry out sustained implementation of all phases of the program concurrently.

FINATA initiated a new, extensive campaign in the fall of 1982 to obtain new title applications. This campaign to increase the number of beneficiaries covered all the Departments in the country and most of the municipalities. It involved the use of mobile teams which took the reform directly to the campesinos on a major scale for the first time. The success of this approach is indicated in the statistics. In January alone, 8,782 new title applications were taken; overall, by the time the campaign was terminated on February 28, 1983, 21,537 applications were obtained. However, with the completion of the campaign, and particularly the ending of the use of mobile teams, a sharp decrease in the number of new applications immediately became apparent with a low of only 178 applications in June.

The question might well be asked: Why didn't FINATA continue to use mobile teams to obtain applications? One important reason was that a decision was made to use their limited financial and technical manpower on other aspects of the program. Thus, during the period when there was the steepest decline in new applications, there was a directly related increase in the issuance of provisional and final titles. There was, at the same time, a continuation of evictions, particularly in January, February and March—the period preceding the planting season—and a sharp increase in legal oppositions to campesinos' claims presented by former landowners. We will discuss these two points more fully below.

AID has recently noted FINATA's lack of technical and program resources, and has recently approved a two million dollar grant to FINATA to allow them to hire and train up to 500 new employees. Mobility will be increased with the purchase of an adequate number of vehicles under the grant. The training process of the new hires is completed, and FINATA has now launched a major new comprehensive campaign, utilizing the mobile team concept, to simultaneously process and expedite new applications, provisional titles, landlord compensation and the issuance of definitive titles. This new campaign began on July 15.

FINATA's goals for the period between July 15 and Dec. 31 include 20,000 new applications, 14,000 provisional titles and the compensation of 900 ex-property owners, which will facilitate a major increase in the issuance of definitive titles. Given these ambitious goals for the next six months, we must admit that it is much more pleasant to contemplate future successes than to report on past performance. Even if FINATA were to achieve these goals, however, the program would still be significantly short of completion. Moreover, unless the current termination date for applications is extended beyond December 31, 1983, a substantial number of beneficiaries would never be reached. We must emphasize, however, that the land reform program and the current FINATA campaign continue to have the support of the UPD and its campesino affiliates, and we will continue to support their efforts.

#### THE PROBLEM OF EVICTIONS

Very recently, the magnitude of the problem of evictions has been substantiated by a statistical study jointly conducted by AID, AIFLD, FINATA and the UPD. As of this date, there has not been sufficient time to completely analyze all of the data, but

enough is known to state that evictions are an extremely serious problem. All parties to the study agree on this point. In reality, the new statistical information only proves what the Salvadoran campesino organizations have been saying since December of 1981, and what the AFL-CIO has been reporting to various committees of the Congress over the past two years.

Before discussing the statistics, a couple of points should be made. First, every eviction is an illegal eviction because it is against the agrarian reform laws of El Salvador for anyone to evict an eligible beneficiary of the land reform program. Now he has lost possession of his land, and for a person already living at the margin of survival, this is deadly. Third, an eviction of one campesino, when it becomes known to other potential beneficiaries, has the multiplier effect of deterring others not to exercise their legal rights.

Because all of the statistics have not yet been analyzed by all of the parties to the study—much less that they have reached agreement on their meaning—we are going to mention only the most important. The size of the study's sample was designed to provide at least 95 percent confidence level. The study, which resulted in the production of twenty separate tables, will be made available as soon as the analysis is completed. This is expected to take several weeks.

Two separate definitions of an evictee were used in the study. FINATA insisted that only a person who had, at the very least, filed an application should be considered an evictee if he had been thrown off his land. The campesino organizations insisted that any potential beneficiary, whether or not he had filed an application should be considered an evictee if he had been forced to leave his land. Thus, under the FINATA definition, it was found that 5,634 persons as of July 1983 were considered to have been evicted. Using the definition of the campesino organizations, the figure is 9,067 evictees. Both figures derive from a sample universe of approximately 6,200 beneficiary families and do not include evictions among a roughly equal number of families who were not surveyed.

Perhaps it will come as no surprise that we support the campesino definition. But we hasten to assure you that this support is based on policy and logic, not friendship—although friendship certainly exists. We find little value in a definition (the FINATA definition) that excludes an evicted campesino who, primarily because of intimidation and fear of the extreme right, has not been able to apply for what is legally his.

The figure of 9,067 evictions is bad enough. However, we fear that even this figure is understated due to lack of information available under the campesino definition for the region which includes Usulután, San Miguel, Morazan, and La Unión, a conflicted area which had the highest absolute number of evictions even using the FINATA definition. The figure of at least 10,000 evictions, which the campesinos have been using for quite some time (without the benefit of a scientific study) is probably not too far off.

Another disturbing aspect about the study is that the reinstallation of evicted campesinos is only 1,271 persons, which is considerably below the numbers previously reported to AID by FINATA (3,656). We do not, by disclosing this data, accuse the FINATA authorities of falsifying their reports. However, since the process of reinstallation is probably the most practical way of dimin-

ishing the resistance of former landowners, this low figure would indicate that we have a great deal to do in this area. At the very minimum, further analysis is necessary to reconcile the study's figures and those of FINATA's on the reinstallation of illegally evicted beneficiaries.

The study underlines what we already knew. The single most significant reason for evictions is landowner resistance: sixty-eight percent of the incidents were effected by landowners.

Even if satisfactory action on the Hammer-Pearlman-Viera murders were to allow us to support the giving of military aid, the AFL-CIO would insist that the giving of military aid be conditioned on the restoration of the integrity of the land reform process, including reinstatement of evicted beneficiaries and prevention of further evictions, and on the completion of that process in accordance with the agrarian reform decrees Nos. 153, 154 and 207.

#### THE PROBLEM OF "OPPOSITIONS"

Another matter, not included in the study, continues to be a serious threat to the land reform program. These are the "oppositions" to the campesinos' claims submitted by the former landowners and administratively resolved by FINATA; according to the campesino organizations, altogether too many times in favor of the former landowner. This problem must be subject to further analysis to determine what the reality actually is. The campesinos have been claiming for some time that oppositions are a problem of major magnitude. Somehow, no one believes them until a statistical study is done. Behind this assertion is another claim by the campesino organizations that the ARENA party is guilty of conflicts of interest within FINATA and at all levels. The AFL-CIO believes the campesinos.

#### CONSTITUTIONAL CHALLENGES

Still another threat to land reform comes from the draft of the new constitution. The language of articles 102, 103, 104, 105 contradicts, through a variety of provisions, the existing land reform laws. For example, Article 104 contains an unlimited right of a landowner to rent his land, which is in direct contradiction of the basic land reform legislation adopted in 1980. We do not believe that this clause was inserted in the draft of the Constitution in isolation; indeed there are a series of provisions in these proposed articles that would be wholly destructive of land reform legislation. If allowed to prevail, any of these clauses would terminate the land reform program, and the U.S. Government, under current law, would be required to end aid to El Salvador. Under these circumstances, the AFL-CIO would support a termination, including economic aid.

#### LAND REFORM SUMMARY

In fact, we see a general pattern of opposition against the land reform program at all levels (municipal, departmental, and national), and using evictions, oppositions, and the new draft constitution as major weapons. This is one reason that we signaled a new strength of the extreme right at the beginning of this statement.

We must be careful not to let pessimism carry the day. Much has already been accomplished and, we are confident, much more will be accomplished. To date, 64,687 applications representing 50,866 families have been submitted under Phase III of the program. There are an additional 32,000 beneficiary families on Phase I cooperatives.

Altogether this represents nearly 500,000 people who have benefited from the program. To protect and continue the process will require the continued support of the U.S. Government for land reform in El Salvador. We must support those in El Salvador who favor the program and not have the door open to the extremes of political left and political right—either of which would destroy land reform for their own ends.

JACKSON/MATHIAS AND BARNES/KEMP  
RESOLUTIONS

Support for land reform, of course, is only one aspect of a much larger picture. The AFL-CIO has always favored a sufficiently high level of economic aid for Central America in general and El Salvador in particular so that the conditions of poverty and injustice are eliminated. The proposals of Senators Jackson and Mathias and Congressmen Barnes and Kemp (the so-called and, we feel, misnamed "Marshall Plan for Central America") deserves the positive attention of the Congress. We believe that a carefully conceived, major development effort can be mounted and sustained with excellent chances for success for less than it costs to build another aircraft carrier to patrol the coasts of Central America. However, notwithstanding the present need for short-term economic assistance to shore up the serious balance of payments and budget deficits of the economies of Central America, there is also relative low absorptive capacity for longer term project assistance designed to bring about imperative economic and social changes. We would caution that the monies spent now not allow the political and social status quo to remain. Economic development without complementary sociopolitical changes and democratic accommodations can be as counterproductive and as dangerous as the macro-economic development which may be achieved.

BI-PARTISAN FOREIGN POLICY FOR CENTRAL  
AMERICA

We support the initiative of the President of the United States to move toward a bipartisan foreign policy for Central America through the establishment of a high level commission, headed by Henry Kissinger, to recommend policy for the area. The AFL-CIO does not accept the proposition that the choices for Central America, or for U.S. foreign policy toward the area, are between right wing dictatorships or Marxist-Leninist regimes. We reject the idea that our democracy needs be "exported." Rather, we know that the overwhelming majority of Central Americans desire to control their own destinies so fervently that they constitute a national resource for the growth of democracy; a natural resource that we have a moral right and duty to nourish by aid which is designed to benefit the democratic and pluralistic centrist forces of each country.

In the past, much needed development programs have resulted in a richer upper class and a much more exploited worker and campesino class. The only way to prevent the economic, social and political exploitation that has long provided the underpinning for the Marxist-Leninist appeal for revolution is to create more wealth and share it more equally among the working people of Central America. There can absolutely be no military solution if it results in the continued injustices and deprivation of the average man. True democracy and an end to rule by the Central American oligarchy is the only legitimate way to defend U.S. national security interests in the region.

Mr. Chairman, we thank you for this opportunity to present to this distinguished Committee our views of the situation in El Salvador.

TESTIMONY OF CHARLIE CLEMENTS, M.D.,  
M.P.H.

It is a privilege to submit testimony to this committee today. My name is Charlie Clements. I have recently returned from a year in El Salvador where I worked as a family physician. It was in a county hospital in Salinas, California that I first began seeing Salvadoran refugees, many of whom still bore psychological and physical marks of repression. I wondered if the Salvadoran school teachers, healthworkers, farmworkers, religious workers, and unionists were the "they" we would have to stop at the Rio Grande, if we didn't stop them in El Salvador? It was at that time that I began hearing echoes of Vietnam with calls for more advisors, more helicopters, and phrases such as "pacification" or "search and destroy." I knew too clearly what they meant because I had volunteered to serve in Vietnam as a young man. I left the conflict in SE Asia disillusioned with the deception and conduct of the war; I also left with a personal commitment to non-violence. So that my remarks may be understood in context of more than a "country doctor," I would like you to know that I am a distinguished graduate of the U.S. Air Force Academy and have degrees in economics, business administration, and public health.

As you may know, many parts of El Salvador were denied medical care when the army occupied and closed the nation's only medical school ending the obligatory rural service of students in their last year of formal training. The place where I worked is a rural area surrounding the Guazapa volcano in the Department of Cuscatlan. It is one of the "controlled zones" of the opposition FDR/FMLN. The conditions of my service were that I would remain medically neutral in accordance with the Geneva Conventions, that as a Quaker I would not bear arms, and that I would work with a civilian population. Quakers are urged to "approach situations of conflict with creative, non-violent action to end oppression and promote just and equitable relations among all peoples" and it was with that spirit that I provided health care to guerrillas, government soldiers, and civilians alike. The 10,000 non-combatants, 40 percent of whom were under age 12, accounted for the greatest majority of my responsibility.

The "campesinos" of Guazapa have farmed the rich land on the gentle slopes of the volcano for generations but previously it has been for wealthy landlords and now it is for themselves. Before I went to El Salvador, I knew that in 1960, 1 percent of the population owned 20 percent of the arable land and that by 1980, 2 percent of the population controlled 60 percent of the arable land. Hearing the campesinos relate the story it assumed a very human dimension. They told of having to give 50 percent of their crop yield to the landlords and lenders year after year, which left them enough for a marginal subsistence. In a bad year they would have to decide to either keep sufficient harvest to feed their children and watch their lands repossessed or give the landlord and lender their due and watch another child go hungry. And thus they watched lands that had grown corn, beans, and sorghum become part of larger land holdings and be planted in coffee, cotton, sugar cane, or used to graze cattle. As El

Salvador became the hungriest country in Central America, they watched 25 percent of their children die before age five. At the same time another hunger developed in El Salvador, a hunger for change which was inspired by the message of liberation theology which told them that their misery wasn't the result of God's will, but rather the result of a few men's greed. And so they organized . . . not revolution, but rather base Christian communities, church sponsored agricultural cooperatives, associations such as the Federation of Christian Campesinos, and unions. Just as the act of Gulliver standing up tore asunder the threads of the Lilliputians that kept him imprisoned, the poor of El Salvador standing up threatened the very system that kept them underemployed, illiterate, malnourished, and subservient for so many years. In and around Guazapa priests such as Rutilio Grande and Jose Allas were murdered or beaten and left for dead. The next targets were the leaders of the cooperatives or the delegates of the word from the base Christian communities. The sons and daughters of the campesinos began ambushing the death squads who called in the army to help them eliminate the subversives. And there began a spiral of violence that would lead their sons and daughters, now known as guerrillas, to form self defense forces. Before they would learn what a "hammer and anvil" operation was or establish perimeters of defense defining a "controlled zone," there would be many massacres of civilians.

I learned my history of the zone through patient interviews. In a prenatal clinic, I might ask a pregnant woman how many pregnancies she had. She might answer eight. I would ask how many children were still living. She might answer two. I would ask how many abortions or miscarriages she had. She might say one or two. Then I would ask what happened to the others wanting to know if there had been birth defects or perinatal problems; it was a question I would learn to ask very gently. The first time I asked it the mother told me that four of her children were killed in the "massacre of Palo Grande" when the government soldiers surrounded and burned a house with 36 women and children inside. I asked her why they hadn't run like we do now when the soldiers invade. She said it was before they knew they were the enemy because they had never belonged to any organizations or gone to any demonstrations. I would hear many similar stories during my year in Guazapa.

The campesinos of Guazapa are creating a society with more social and economic justice than they have known before. The church or campesino cooperatives, which were the early targets of repression, are now flourishing as revolutionary cooperatives. Peasants have a choice of working land individually or collectively, but scarce resources are distributed equitably. The dairy cooperative, which keeps the hundred head of cattle under the cover of trees to protect them from strafings of helicopters, distributes the milk throughout the villages to the most malnourished children. The fishing cooperative distributes the 150 lbs. of fish it catches almost daily to all of the villages where the pregnant women and wounded patients, both with higher protein needs, have priority. There are more than thirty elementary schools in addition to the adult literacy classes. There are more than a dozen health clinics and two hospitals where many patients have access to medical care for the first time in their lives. Every



village has a functioning legal system called the Commission of Honor and Justice which is part of the Popular Committee or town council. The Popular Committees hold regular town meetings where priorities are discussed and decisions made by the townspeople. There are also periodic assemblies and congresses held with great difficulty as any assemblage of people is an invitation for attack by observation planes.

When I testified before a committee of the House of Representatives in March that I had seen the use of napalm-like substance, I was met with disbelief. The Pentagon issued a prompt denial saying, "We don't use that word around here." I asked a Congressional delegation to El Salvador to inquire about its use. They were told by Col. Bustillo, commander of the Salvadoran Air Force, that, indeed, they had used Israeli-supplied napalm until 1981. What they are dropping now may not be napalm but it: (1) comes in cannisters that are dropped from aircraft; (2) upon contact it doesn't explode but rather bursts into a rolling ball of flame; (3) medically has the adhesiveness, prolonged burning time, and higher burning temperature of napalm which favors third degree burns with coagulation of muscle, fat, and other deep tissue; (4) has an igniting agent (presumably white phosphorous) which becomes imbedded in tissues and can continue smoldering and re-igniting long after initial trauma. I don't wish to play "semantics" with the Pentagon, but rather report what I saw and treated as a physician. Too many patients which I saw for white phosphorous or similar wounds were the elderly or very young who didn't have the reflexes to respond to the whine of an attacking A-37 or the whistle of a mortar.

I also told that committee that I couldn't remember a day since last July that the front had not been either bombed by American supplied A-37's, or strafed by American supplied Huey helicopters, or rocketed by American supplied observation aircraft with no distinction made between civilian and military targets. Upon inquiry, Col. Bustillo admitted that Guazapa was considered a "free fire" zone in which any target was legitimate. I would presume that included any of the more than 4,000 children or thirty elementary schools. His admission was certainly consistent with my observations as well as those of one of my patients named Romilia:

"Since we had just finished morning prayer, we didn't want to leave but . . . that little plane kept flying overhead, searching. We were hungry and thirsty; we didn't even have any water there. They then forced us out . . . and it was on that afternoon they massacred some of the people—a lot of them. It was then my daughter was wounded . . . and then the wound—I've never seen anything like the burning from the pieces that fell from the bombs . . . she got some white blisters on her leg and then they turned red and then purple, and her leg got really hard and this awful smell of rot came out of her leg. That's what killed her, I guess, there was nothing we could do. It's like her leg rotted right there on the spot."

She was describing wounds caused by U.S. supplied white phosphorous rockets. Perhaps, it was more merciful for Romilia's daughter to die quickly of white phosphorous burns than to have reached the next village of Tenango, where during the same

offensive U.S. trained forces left their calling card—dozens of macheted men, women, and children along with chaulked graffiti congratulating the Atlacatl Brigade on its second anniversary.

Romilia's daughter and more than a hundred other civilians died in a February offensive against Guazapa, but none of their deaths would have been included in the U.S. embassy's "politically motivated deaths" statistics which you heard today because the Salvadoran army reported them as "guerrilla deaths." According to Salvadoran military sources that offensive cost U.S. taxpayers \$5 million. It cost the Salvadoran military 50 soldiers and it cost the guerrillas the lives of five combatants or \$1 million for each dead guerrilla. That price is not out of line for the costs per guerrillas bodycount in Vietnam. In Guazapa there was no cost attached that week to the more than 100 civilians deaths or to the "hearts and minds" of the thousands of other peasants who returned to the burned shells of their homes and the rotting corpses of their livestock.

Those actions were performed by the same Salvadoran military which President Reagan just told you is "achieving substantial control over . . . its own armed forces" and is "making a concerted and significant effort to comply with internationally recognized human rights." Last week the President also complained that only 10% of the Salvadoran military such as the Atlacatl Brigade had the "benefit" of U.S. training. I fear the result when you supply funds for more of them to have such an "advantage" or for more "small planes that will keep on searching." Those were not isolated events. Guazapa has suffered a dozen such invasions.

Even after Vietnam you cannot understand why "their" Salvadoran soldiers fight better than "our" Salvadoran soldiers. It is not a matter of training or equipment. It has to do with the quality of the society we are asking them to risk death defending. Perhaps that is why more than a 1,000 Salvadoran soldiers have surrendered to the FMLN in 1983 alone. Perhaps that is why the President will eventually have to send U.S. combat forces to El Salvador to do for them what they cannot do for themselves? Perhaps that is the result of a self-defeating foreign policy that identifies military success in El Salvador with the prestige of the United States. For whether, the United States wins or loses militarily in El Salvador, it will always lose in the end. It loses, because, if the United States thinks it has won, it will have done so at the expense of social and economic self-determination of the Salvadoran people. It will have only strengthened prevailing corruption and official brutality and postponed the next insurrection. But the United States also loses, if it thinks it has lost militarily, because it will have lost the only opportunity to truly help El Salvador and all of Central America by encouraging the Contador group to begin dialogue and negotiations that can lead to lasting regional peace.

There is much to say about the people against whom all of our military aid is being directed. When they quietly accepted their hunger, poverty, and unemployment, they were accused of being a bunch of lazy, shiftless, grumbling beggars who threw all the blame for their banana (coffee) republic's problems on the United States. But when they do something about their condition, they are accused of being communist agents and Soviet-trained terrorists, a lurking threat to the national security in our own

backyard. Yes, there are Marxists among "them" and Christian democrats, social democrats, students, engineers, doctors, peasant farmers, trade unionists, laborers, teachers, and sympathetic clergy too. But even if Marx, Sandino, and Castro had never lived, there would be a revolution in El Salvador today, because the war springs from a blood history or military dictatorship and oligarchical control that have kept the majority of Salvadorans malnourished, illiterate, underemployed, and impoverished. When will we learn that arms from the United States are no antidote for the spread of hope?

Time is running out. The FDR has expressed a willingness to negotiate without conditions for almost two years while the signals from the United States have been "you don't have to negotiate with anyone who is trying to shoot their way into power." Have we forgotten that George Washington "shot his way into power?" Now every country in the region including Nicaragua and Cuba have expressed a willingness to negotiate while the U.S. continues to dangerously escalate and regionalize the war with the pretext of "stopping the arms flow to El Salvador." The reason the most sophisticated intelligence service in the world has not been able to document any significant flow of arms from Nicaragua to El Salvador is the same reason the U.S. trained and equipped counter-revolutionaries attacking Nicaragua from Honduras have not been able to interdict even a single rifle—because it doesn't exist. That fact was finally acknowledged recently by a senior Reagan administration official and a Salvadoran military source through the U.S. embassies in El Salvador and Nicaragua have been admitting it off the record for more than a year! It is clear from the recent comments of former Asst. Secretary of State Thomas Enders that the Reagan administration has no real interests in pursuing negotiations and will use the recently appointed Bipartisan Commission as it has the certification process as a smokescreen to pursue its military solution. The purpose of the Commission isn't to find a new policy but rather justify the present one as we see within a week of its creation the President has launched a massive military deployment, is planning to ask Congress for hundreds of millions of dollars for military aid to Central America, and wants to double the limit of the number of U.S. military advisors in El Salvador.

The American people recall a precious document which begins, "When in the course of human events, it becomes necessary . . ." and unlike President Reagan, they understand that poverty and lack of human rights no Soviet subversion are the cause of the turmoil in Central America. They also recall Vietnam and will not allow us to jeopardize our national interests by becoming involved in another endless war which divides our country, depletes our resources, and antagonizes world opinion. Congress is not listening to the American people. The American people will not be paralyzed by the threat of being called "soft on communism," nor will they respond to the oft-repeated cry of "Soviet wolf." The Congress is allowing the President to slip into another undeclared war and if it is not stopped in the by the Congress, it will once again be stopped in the streets of our nation.

<sup>1</sup> Signed, thumbprinted testimonies of survivors on file at the American Friends Service Committee, Philadelphia, Pa.

STATEMENT BY COL. SAMUEL T. DICKENS,  
USAF (RET.)

## EL SALVADOR "CERTIFICATION"

During the ten day period from July 8 through July 17, 1983 Colonel Samuel T. Dickens USAF (Ret.) visited El Salvador for the purpose of collecting information for analysis to determine whether that country was making sufficient progress to warrant continued economic and military assistance from the United States as provided by Public Law 97-113. (Colonel Dickens, a director of New World Dynamics, was representing a coalition of organizations known as the Central American Freedom Alliance (CAFA)).

The process by which the President of the United States must "certify" that El Salvador is making progress in certain areas in order to receive continued United States support was established by Section 728 of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, approved December 28, 1981.)

Every six months the President must certify to Congress that the government of El Salvador—

"(1) is making a concerted and significant effort to comply with internationally recognized human rights;

"(2) is achieving substantial control over all elements of its own armed forces, so as to bring to an end the indiscriminate torture and murder of Salvadoran citizens by these forces;

"(3) is making continued progress in implementing essential economic and political reforms, including the land reform program;

"(4) is committed to the holding of free elections at an early date and to that end has demonstrated its good faith efforts to begin discussions with all major political factions in El Salvador which have declared their willingness to find and implement an equitable political solution to the conflict, with such solution to involve a commitment to:

(A) a renouncement of further military or paramilitary activity; and

(B) the electoral process with internationally recognized observers."

## CONCLUSIONS

The government of El Salvador is making significant progress in each of the four major areas specified by Public Law 97-113 and therefore merits continued United States economic and military assistance. The Apaneca Pact set the stage for subsequent government actions which provide overwhelming evidence of officials' desires to bring about peace, economic reforms and meet internationally accepted human rights standards.

One must question the value and significance of the economic reforms which the United States is, in effect, imposing upon El Salvador. Any careful analysis will reveal that the economic reforms are inimical to United States traditions and theory which espouse private enterprise, free trade and competition. The banks have been nationalized, foreign trade is strictly controlled by the central government and private property has been confiscated. The United States' continued pressures for agrarian reform translates into additional confiscation of private property. (Phase II of the Agrarian Reform if enacted would affect properties between 100 to 500 hectares—approximately 250-1250 acres.)

No less an authority than the National Association for Private Enterprise (ANEP) states that 50 percent of the blame for El

Salvadors disastrous economic status today is due to the negative policies implemented since the 1979 coup.

The Congress should undertake a careful look at policies which the United States is enforcing El Salvador to follow. Assumptions are being made about "Agrarian Reform" which do not bear close scrutiny. This "look" or formal analysis should determine whether we are offering the best opportunities for alleviating poverty in El Salvador through a free market economy and free enterprise or whether, the United States is encouraging a strong central government and socialism. All this under the guise of economic and agrarian "reforms."

## INDIVIDUALS AND ORGANIZATIONS CONTACTED

During the ten day visit to El Salvador the following individuals, organizations and commissions were contacted. Various areas throughout the country were visited: The President of the Constituent Assembly: Major Roberto d'Aubuisson; The Foreign Minister: Fidel Chavez Mena; The Defense Minister: General Vides Casanova; A previous Foreign Minister: Dr. Antonio Rodriguez Porth; The President of the Peace Commission: Sr. Francisco Quinones; The Director of ISTA (Agrarian Reform): Dr. Arturo Argueta; Air Force Commander: Colonel Rafael Bustillo; Military Commander: Colonel Rafael Bustillo; Military Commander at Zacatecoluca: Lt Col Denys Moran; The National Association for Private Enterprise (ANEP) Sr. Conrado Lepez Andreu; The Deputy Editor of Diario de Hoy (Daily Newspaper); The Human Rights Commission: President, Monseñor Fredy Delgado; The Frente Femenino (Women's National Association); The President of the Salvadoran Cotton Cooperative: Ing. Roberto Aguilar Papini; The Military Hospital, San Salvador: Colonel (Dr.) Salvador Mejia Arce; "La Labor"—An Agrarian Reform Cooperative in Ahuachapán; A Cotton Cooperative at San Miguel; A Cotton Cooperative at La Carrera, Usulután; Refugee Center: Santa Tecla; Refugee Center: Cojutepeque; Air Base of Ilopango.

Various individuals; representing small business, restaurant owner, small farm holdings, agrarian reform cooperative leader, junior military officers, foreign ministry diplomat, military doctors and nurses, farm workers.

\* All interviews were conducted in Spanish without interpreter.

## ANALYSIS AND FINDINGS

## APANECA PACT

On August 3, 1982 the President of the Republic, the political party leaders and representatives of the Constituent Assembly joined together and signed a basic government platform called the Apaneca Pact. The primary purpose of the pact was to respond to the popular mandate of the March 28, 1982 elections, which would lead the country to peace, social and economic progress. The Apaneca Pact addressed several principles to be followed including, Pacification, Democratization, Human Rights, Economic Recovery, Reforms, Confidence and Security and efforts to strengthen international support.

In order to help bring about these objectives three commissions were formed: the Peace Commission, the Human Rights Commission and the Political Commission.

## THE HUMAN RIGHTS COMMISSION

The Human Rights Commission was established by executive decree on December 1, 1982, beginning formal activities on January 3, 1983. Seven members make up the

commission appointed by the executive. Members will serve for two years. The present commission chairman is Monseñor Fredy Delgado A. Since they undertook their duties they have received 303 formal petitions protesting human rights violations of which 126 have been successfully resolved.

Of the 303 formal petitions 99 persons have gained their release, 36 of those imprisoned for political crimes were released because of the Human Rights Commission's efforts. Twenty-seven have been ordered to trial through the judiciary system and another 19 persons have been given the protection of the Human Rights Commission.

The Human Rights Commission has undertaken an intensive educational campaign to raise the level of consciousness of Salvadorans through the press, radio, and television. The Armed Forces and community leaders attend talks on Human Rights in order for all to have a better understanding of the need to preserve standards of Human Rights during peace and war.

The Human Rights Commission has designated one delegate as a representative to the Amnesty Board.

The following information is an analysis of the Human Rights Commission report (See Attachment #1 of this report) approved by them on July 15, 1983, covering the period January 1 through June 30, 1983. This report refutes independent reports by unauthorized sources which would have one believe that the El Salvadorean government bears primary responsibility for the killings taking place in that beleaguered country.

Chart I.—Take the figure of 3,421 which includes combat casualties (dead and wounded), homicides and murders. Now refer to CHART IV. Of the total of 3,421 deaths and casualties the FMLN (guerrillas) accept a total of 1,644 casualties. In turn the El Salvadoran Armed Forces accept losses of 813. These combat casualties total 2,457. When combat casualties (2,457) are subtracted from total deaths in El Salvador during the first six months of 1983 we have a difference of 964. It is this total which should have closer scrutiny. The 964 deaths would appear to be civilian rights.

The Human Rights Commission analysis concludes:

Civilian deaths by terrorist acts .....	222
Civilian deaths thru military operations .....	23
Civilian deaths by unidentified persons .....	676
Deaths attributed to unknown organizations .....	43
Total .....	964

The Human Rights Commission charges the terrorists (guerrillas) with 222 civilian deaths, the military with 23 deaths and to unknowns, 719 deaths. Presumably the latter, 719, are murders having nothing to do with the war, or guerrilla activities. What most analysts are not appreciating when analyzing deaths is that the country is engaged in a total guerrilla war. These analysts make the false assumption that the guerrilla war only involves combatants in the mountains, on the slopes of volcanos and by various sized organized military units. To make this assumption is to ignore the realities of guerrilla war which in fact has the enemy operating in every part of the country, in the cities, and infiltrating every sector of government and the economy.



Discussions with key government officials confirms their desire to eliminate human rights abuses. They recognize the importance of continued public support by Salvadoran citizens evidenced by the over 80 percent of the electorate participation in the March 28, 1982 elections. They do not want to alienate that support. Additionally they are fully aware of the importance of international acceptance of their government and the importance of continued United States support, economic and military, to ensure their survival. Now see Chart III.

An analysis of the 137 kidnappings by departments (states) where they took place is revealing. The most kidnappings (42) took place in the department of Chalatenango, a major combat area. Second in kidnappings was San Salvador with (24). Other major areas where kidnappings have taken place are San Vicente (10), Usulután (14), and Morazan (15), all major combat areas. This closely ties the kidnappings to the areas where most of the fighting takes place. Communist guerrillas effectively use kidnapping as a means to control small towns and villages through intimidation, removing leaders; mayors, teachers and other authority figures. Chart II bears this out identifying terrorists (guerrillas) with (96) of the kidnappings for the period January 1 through June 30, 1983. Bishop Pedro Aparicio, of El Salvador, reported guerrilla recruitment through kidnappings in the smaller towns threatening the youths with the murder of family members if they escaped.

Chart II lists 196 disappearances during this six months period. The bulk (149) are charged to unidentified people. It is difficult to guess how many of these disappearances result in deaths. We must assume a certain percentage have fled the country with many having reached the United States as illegal aliens. (Figures vary from 300,000-500,000 for illegal Salvadorans now living in the United States.)

Terrorist acts. International press and television has paid insufficient attention to the destruction waged by the guerrillas against El Salvador's economy which is a direct attack upon the people. This destruction is revealing. As the elections proved the people did not support the guerrilla movement the terrorist actions by the guerrillas clearly shows their acceptance of their failure to win over the nation's population and so have set about to destroy the economy. This destruction, waged against the people themselves, directly and adversely influences their daily lives, their ability to work and receive wages and forces a deterioration of everyone's standard of living and quality of life.

These acts of terrorism are direct against the electrical power system, the telephone system, roads, railroads, residences, government facilities, construction companies, commercial activities, banks, farms, animals, vehicles and include the taking and sacking of towns and villages.

A flight over the eastern part of the country reveals the destruction to the electrical grid system with the scores of high tension towers lying on their sides, resulting from dynamite explosions. The eastern departments were without electricity 200 days last year with the resulting deterioration of productivity of all commercial activities.

There were 355 attacks on the electrical grid system of the country involving the destruction of power distribution centers, high tension towers, posts, transformers and other line cuts. The telecommunications

system suffered 71 attacks against telephone lines, grid systems and line cuts. There were 180 attacks against the transportation system. This involved the dynamiting, machinegunning, setting on fire of buses, private cars, farm workers transportation, railroad cars, trucks and commercial vehicles. There were 17 attacks against bridges, roads, railroad bridges and railroad lines. The government suffered 83 attacks by fire, machinegunning and dynamite directed against officers, court houses, schools and the judiciary system. There were 975 vehicle thefts during this sixth month period. There were 25 attacks against the agricultural activities involving damage to fields of sugar cane, cotton and coffee. El Salvador's economy depends on the export of these three crops which are directly affected as well by power outages, vehicle destruction, road and railroad outages as well as telephone outages.

Charts V through XIII should be carefully analyzed to obtain an evaluation of the total war being waged by the guerrillas against the people and the government of El Salvador. Such an evaluation is strong evidence of a war being waged by 6,000-8,000 guerrillas against a people, unsupported by any significant element of the population.

An effective campaign against the government of El Salvador has been waged by international communism attempting to portray it as a cruel, ruthless and bloody dictatorship. If this campaign succeeds, and results in the denial of continued United States economic and military support, the people of El Salvador will be the loser. If this occurs the Free World will have been dealt a significant blow and the repercussions will be severe for the rest of the Caribbean Basin and the United States.

#### THE AMNESTY BOARD

The Amnesty Board has been created to authorize amnesty to those who have taken up arms against the government now wishing to surrender, those who have been processed or sentenced for political crimes, those who have been sentenced for politically motivated crimes for terms of less than four years and served six months in prison.

The Amnesty Board is composed of three members and was created by Decree No. 210 of the Constituent Assembly on May 4, 1983. It was expected to be in existence for 60 days however, its life was extended an additional 30 days into the first few days of August, 1983.

On July 12, 1983 the Amnesty Board reported the following information: From May 21 through July 12, 1983 a total of 540 individuals convicted of political crimes were granted amnesty.

Of those bearing arms 182 voluntarily presented themselves to the government seeking amnesty. (135 were men and 47 women.)

Total: 722 have taken advantage of the amnesty program.

Among those granted amnesty provisions were made for those interested in farming to be granted land, grain and credit. Forty families have taken advantage of this offer.

An immigration program was established for individuals desiring to leave El Salvador. Canada has received 139, of which 75 had been granted amnesty. Australia has received 70 people and Belgium 5 families.

#### THE PEACE COMMISSION

The Peace Commission has the objective of incorporating all the political and social sectors into the democratic process and in peace. The Commission on May 30, 1983

made a call to all sectors and in particular the FDR (Frente Democratico Revolucionario) to initiate a dialogue leading to their participation in democratic, political life in El Salvador. The Commission reiterated its belief that a democratic and political solution was the only method to achieve an answer to violence.

#### AGRARIAN REFORM

The Salvadoran Agrarian Reform Institute (ISTA—Instituto Salvadoreño de Transformación Agraria) has the responsibility of administering the cooperatives created through the expropriation of properties greater than 500 hectares. (Approximately 1,250 acres.)

The Agrarian Reform began with the Armed Forces proclamation of October 15, 1979, in which, among various points, it was stated that measures would be adopted to make an equitable distribution of the nation's wealth.

On March 6, 1980 the Army physically took possession, at the point of the gun and without formal notice, all properties which exceeded 500 hectares. In most cases owners were not allowed to remove any of their personal possessions including clothes, books, furniture and all private property in their living quarters. This included automobiles and private aircraft, with limited exceptions. Though the owners were by law authorized to retain 100 hectares for their own development that authority has only recently come into play. The owner does not select the 100 hectares as the government makes this decision often resulting in the owner being granted the least productive and fertile property. In most cases the private owners have had no access to their private homes on the expropriated property.

In order to understand the impact and significance of Phase I of the agrarian reform one should study the report, Agrarian Reform In El Salvador, by Checchi and Company, 1730 Rhode Island Ave., N.W., Washington, D.C., 20036, published January, 1983 which was commissioned by the Agency for International Development (AID) of the United States government. Only reading the summary will not provide sufficient understanding of the disastrous effect that implementing agrarian reform has had on El Salvador. A thorough study of the report should be made.

The United States Congress through the process of "certification" is requiring that El Salvador proceed with certain "reforms" which include agrarian reform, nationalized banking and foreign trade. These "reforms" were imposed by a revolutionary government and are being continued by the present government under the tutelage of the Provisional President, Alvaro Magana. Further evidence of continued efforts to ensure the agrarian reform process can be seen in provisions of the new Constitution which is being reviewed for approval by the Constituent Assembly.

Phase III of agrarian reform is commonly known as the "land to the tiller" program as people working land which is less than 100 hectares in size are encouraged to seek title to that land, subsequently expropriated from rightful owners.

Phase II of agrarian reform has not been implemented. It would expropriate all property between 100 and 500 hectares in size. During my July 1983 visit to El Salvador the possibility of invoking Phase II was being widely discussed by the press and the people. The director of ISTA (responsible for implementing Phase I of the Agrarian

reform) told me that it would be his responsibility to implement Phase II if it were so decreed. He added that if this were the case he would resign his office as there were now insufficient monies available to implement fully and successfully Phase I of the reforms, so how was there hope in proceeding with Phase II?

During the second week of July a visit was made to one of the estates exceeding 500 hectares which had been expropriated by the government by force of arms on March 6, 1980. The estate known as "La Labor" is in the department (State) of Ahuachapan, only sixteen miles from the Guatemala border.

There I met with approximately 180 farm workers and families in a coffee warehouse. For two hours I listened to the complaints of men, women, young and old. One after another an individual would stand in front of the group and tell his story of insufficient work, lack of pay, food and medicine. Twelve told their stories. They were now working one-third that considered normal and in fact were dividing the work of one among three so that each would have an income. Work was not available in other parts of the country. Their plea was that the land be given back to the original owners so that they could go back to work.

Several older men stated that they had been receiving a pension from the owner prior to his property being expropriated. The government was not paying this. Others spoke of how the previous owner paid medical expenses no longer available through the cooperative. Job opportunities previously available from the owner were now non-existent. The discussions continued with tears rolling down the faces of several women.

A total of 1,313 workers at "La Labor" had signed a petition asking that the owners be given back their property so that it could be properly managed and so they could be adequately paid for their work.

I visited a maintenance shop for farm equipment. The senior mechanic had been at "La Labor" for 23 years. There were over twenty pieces of motorized farm equipment in the shop with only three tractors working. The mechanics were busy "cannibalizing" parts to keep some equipment working. I asked how replacement parts were obtained and was told they required a trip to San Salvador. There the banks were supposed to have funds set aside for agrarian reform parts purchases. There were insufficient funds available to provide loans for purchase of spare parts. Centralized government control was playing havoc with what had once been the success of free enterprise.

In San Salvador I discussed with the director of ISTA the situation at "La Labor." He was well aware of the problem. He said he was doing all he could to make the agrarian reform a success but there were insufficient funds to maintain all the motorized equipment and to pay all the workers.

At "La Labor" I asked the farm workers about their "cooperative." The farm workers do not hold title and have no rights to pass on property to survivors, wife or children. There is no retirement program. The "cooperative" shares the profits among the farm workers. Management of the "cooperatives" is through ISTA and their field representatives. These agrarian reform "cooperatives" bear no resemblance to United States cooperatives where land owners join together to obtain mutual advantages through joint cooperative efforts.

In Ahuachapan department on June 1, 1982 3,298 farm workers on 13 different

agrarian reform "cooperatives" signed petitions to the constituent Assembly complaining about the adverse effects on farm workers since the property seizures by ISTA and the Armed Forces. This petition related that the property seizure had created great insecurity and high unemployment. Produce delivered to market was not immediately paid for by the government.

This same June 1982 petition stated that if the farm workers were to be given the property then the previous owners should be paid as the workers were unhappy to benefit from property taken from others. The farm workers asked for major efforts to reopen sugar and coffee mills in Ahuachapan. They reiterated the need for early payment by financial institutions and those commercializing the sale of produce as these delays resulted in increased interests on their debts and unemployment. They asked for urgent consideration for their problems affecting families and causing a feeling of desperation.

Later I flew to the eastern part of the country to visit with the Salvadoran Cotton Cooperative. This cooperative represents independent groups owning their own property banding together for joint ventures. Included in this group as association members were the so called "cooperatives" created by the agrarian reform decree. The President of "Cooperativa Algodonera Salvadorena, Ltda." took me through the facilities there at San Miguel as well as at La Carrera in the department of Usulután.

Cotton production was down for two primary reasons; terrorist guerrillas with their destruction and the agrarian reform. International credit was sorely lacking.

#### A COMPARISON OF RECENT YIELDS WITH THE 1978-79 HARVEST AS A DATA BASE

Raw cotton for 1980-81 was 59.05 percent of base year.

Raw cotton for 1981-82 was 54.39 percent of base year.

Cotton production for 1980-81 was 63.33 percent of base year.

Cotton production for 1981-82 was 63.82 percent of base year.

Profits were down in 1980-81 by 68.29 percent of base year.

Profits were down in 1981-82 by 49.61 percent of base year.

Production by cotton properties affected by "agrarian reform" was 8 percent less than the unconfiscated properties. 41.76 percent of the total properties associated with the Cooperative Algodonera Salvadorena were properties confiscated by the agrarian reform decree.

During 1982 the eastern departments were without electricity for 200 days due to guerrilla actions. Guerrillas additionally destroyed cotton fields, warehouses, and railroad cars loaded with cotton.

Asociacion Nacional de la Empresa Privada (ANEP)—National Association of Private Enterprise.

I met in executive session with ANEP leaders who represent 31 different groups covering all privately owned sectors of the economy. They stated that the threat of instituting the second phase of the agrarian reform should be lifted as owners were not working their property. As long as this threat continued production would be down, dramatically affecting coffee production, a major source of foreign exchange. (Phase II would confiscate properties between 100-500 hectares in size.)

Phase I agrarian reform confiscations of property over 500 hectares have not been properly compensated for. Owners have

been receiving a maximum of 2 percent of land value in cash. The difference has been handled with bonds having 3, 5 and 20 years for redemption. Many considered these worthless. The government used a tax base for the period 1976-77 without consideration of any real improvements to property during the intervening period.

During the confiscation process of Phase I there were 100 cases of property seizures which were less than the required 500 hectares. Special government decrees maintained government ownership of these properties rather than returning them to the owners. They too have been inadequately compensated for the loss of their properties. (Government data base for property ownership was taken from the year 1970.)

When asked who was pressuring government to institute Phase II of the Agrarian Reform (confiscation of properties between 100-500 hectares) I was told the American Institute for Free Labor Development (AFL-CIO).

ANEP officials stated that the nationalized banks were now a government monopoly, in the hands of a few with no competition. Interest rates were higher and the government controlled 100 percent of the actions. The banks were now attempting to sell bonds representing 49 percent of assets. 20 percent of these were available for sale to bank employees and 29 percent to the public. Public newspaper notices of offerings were getting few takers. The public had little confidence since the banks had been taken over by the military, intervening with armored cars in a simultaneous takeover of all banks. For three years three people have been providing the provisional directorship of the banks. These managers have no experience in economic analysis. As there is no competition between the banks, preference for credits have been directed to government monopolies, such as the agrarian reform. Bank loans to the private sector have been greatly affected by the lack of bank competition and the direction of credits to government agencies. Bank loan availability has been sharply curtailed.

These ANEP officials requested that United States economic assistance be channeled to the private sector to encourage the free market economy and private business.

#### ARMED FORCES

The new Defense Minister, Carlos Eugenio Vides Casanova, takes pride in the initiatives being taken by the army over the guerrillas. He hopes to keep the guerrillas on the defensive while providing protection to civilians in those areas cleared of guerrillas. General Vides Casanova spoke proudly of extensive civic actions underway in bridge and road reconstruction, rebuilding of clinics and schools while providing protection to farm workers and public transportation.

A visit to a local commander at Zacatecoluca confirmed the enthusiasm for civic action and the zeal to secure the area for farm workers to work their land. This Lieutenant Colonel told of his efforts to coordinate army support with local mayors and other town leadership to gain civilian confidence in army supportive actions.

#### MILITARY HOSPITAL

A visit to the military hospital confirmed the propaganda success of the communists in their disinformation program designed to discredit El Salvador in the United States and Europe. There was no evidence of any international support by way of assistance. Some foreign equipment is being made



available but the military sadly lack adequate medicines, equipment and supplies.

The hospital was crowded with over 330 patients. Passageways were full of beds with patients. Expansion of hospital facilities was not keeping pace with requirements.

The hospital commander informed me that there was a shortage of doctors. Paramedical training being conducted by a United States military medical team would help alleviate suffering of combat wounded in war areas. However at this time doctors were required to move to forward combat areas to treat wounded despite inadequate facilities and shortage of medical supplies and equipment in these areas. There were insufficient helicopters to perform needed tasks. The fourteen army helicopters were being utilized for troop movement, supply deliveries and wounded evacuation.

The hospital commander told me there were infrequent visits from international groups inspecting the hospital. Each promised assistance from their organizations without any subsequent response.

#### REFUGEE CENTERS

Two refugee centers were visited. One at Santa Tecla just west of the capital city of San Salvador. The other at Cojutepeque to the east on the Pan American Highway.

Santa Tecla has been operating for over three years. There are over 800 refugees there. A number of the men have found work in the surrounding urban area and a few are engaged in minor work programs creating small profits for basic food necessities. Refugees at Santa Tecla come from two areas in Morazan department and had been moved out of these areas for their own protection.

The Cojutepeque refugee center had been operating a month and existed because of the exodus of refugees fleeing fighting, primarily from the Suchitoto town area. This town has been taken by the guerrilla, retaken by the army and then been involved in renewed fighting. These civilians had not been displaced by the army for their protection but rather were fleeing the guerrillas.

Young workers, representing the Green Cross, were painstakingly reporting names of individuals at the Cojutepeque refugee center. Again there was no evidence of international support for these several hundred refugees and the Green Cross was the only representative at both refugee camps visited.

The lack of concern by the international community for the tribulations being en-

dured by the Salvadoran people is testimony to the effectiveness of communist propaganda. El Salvador has been made an outcast nation without justification.

#### ANOTHER VIEW OF AGRARIAN REFORM

My visit to the local Army commander at Zacatecoluca was with two men who owned farming property in nearby department San Vicente. For some time this area near the slopes of the San Vicente volcano has been terrorized by guerrillas. In the past the army has not been able to provide sufficient force to maintain control so that the guerrillas have always been able to return.

These two men own property less than 500 hectares in size and thus not confiscated under Phase I of the Agrarian reform. They had been forced to leave because of guerrilla actions. The ambitious and confident Lieutenant Colonel commanding army forces in Zacatecoluca proudly spoke of his civic action programs, the mutual cooperation between army units, his headquarters and civilian authorities. He carefully outlined his activities and efforts to create an atmosphere of confidence in the Army in their ability to keep the guerrillas from their destructive raids of the farm lands.

The two farm owners and I drove back to San Salvador with considerable optimism. The two seemed eager to accept the Colonel's offer to come back and work their property under the army's protection. Shortly that optimism collapsed like a popped balloon.

In San Salvador we met with several Salvadoran men in a private home. The two men who had accompanied me to the army headquarters in Zacatecoluca told of their optimism and their confidence in the Army colonel. Immediately one of the men present raised his voice in anger. He pounded the table with his fist and said, "Trust the army! How can we? The army took our property away at the point of a gun in 1980, and now you say trust them and go back to work our farms? Don't you remember what Morales Ehrlich (previous director of ISTA's Agrarian Reform organization under ex-president Duarte) told us when we were all assembled that day? That we should all work our properties so that when they were expropriated the transition would be that much smoother? Do they think we're crazy? Maybe this army colonel is a good man, but how long is he going to be there? Who's going to replace him? And what about the elections? If the Christian Democrats win they will expropriate all our property! Do

they just want us to get the fields back in production so that they can confiscate them from us?"

That tells the story. The greatest threat to unity in the country is distrust. And yet a distrust for very valid reasons. What most Americans don't realize is that the country is in a guerrilla war, without frontiers. The war is not just being fought in the mountains, in the forests, on the slopes of the volcanoes and among armed forces, but by individuals. There is a guerrilla leadership that operates from the cities, with intelligence networks, clandestine, propaganda and psychological operations.

In El Salvador trust and confidence is given to those you know and know well. Occasionally someone you once had confidence in is identified as a guerrilla leader. A school friend not seen for two years has his house raided; it is an arms cache, a "safe" house and full of communist propaganda literature. The leader of the Miami kidnapping of Mrs. Roberto Quinones turns out to be an old friend, one had not seen for several years. The fight is ideological.

TABLE I.—VIOLATIONS OF PERSONAL RIGHTS AND GUARANTEES JANUARY 1 TO JUNE 30, 1983

	Percent	
Injuries and aggressions	134	3.39
Coercions, threats and extortion	53	1.34
Pillage and theft	156	3.95
Violations against home and work place	45	1.14
Kidnappings	137	3.47
Combat casualties homicides and murders	3,421	86.69
Total	3,946	99.98

TABLE II

	Kidnapings	Percent	Detentions and captures	Percent	Disappearances	Percent
Civilian population by terrorists	96	70.01			12	6.12
Civilian population by military operations			95	95.95	19	9.69
Civilian population by unidentified people	26	19.01	4	4.04	149	76.02
Personnel of the FMLN					6	3.06
Persons of the Armed Forces	15	10.95			10	5.10
Total	137	99.97	99	99.99	196	99.99

TABLE III.—JANUARY TO JUNE 1983, HUMAN RIGHTS VIOLATIONS ACCORDING TO WHERE THEY WERE COMMITTED

Place	Total	Assaults and injuries	Coercion threats and extortions	Looting and robbery	Violations of home and workplace	Kidnappings	Combat deaths and murders
<b>Central zone:</b>							
San Salvador	711	33	3	23	12	24	616
Cuscatlan*	329	18		15		12	284
La Libertad	130	4		9		3	114
Cabanas	145	1				1	143
Chalatenango*	472	2	3	8		42	417
San Vicente*	359	8	2	10	6	10	323
La Paz	57	2	1				54
Subtotal		68	9	65	18	92	1,951
<b>Occidental zone:</b>							
Santa Ana	194	7	3	10	3	5	166
Ahuachapán	15			4			11
Sonsonate	75	15		2	1	4	53
Subtotal		22	3	16	4	9	230
<b>Oriental zone:</b>							
San Miguel*	132	3	6	9	1	5	108
Usulután*	196	4	8	18	9	14	143
La Unión	42	6	3	6		2	25

TABLE III.—JANUARY TO JUNE 1983, HUMAN RIGHTS VIOLATIONS ACCORDING TO WHERE THEY WERE COMMITTED—Continued

Place	Total	Assaults and injuries	Coercion threats and extortions	Looting and robbery	Violations of home and workplace	Kidnappings	Combat deaths and murders
Morazan*	335	8	6	6	12	15	288
Unknown	754	23	18	36	1		676
Subtotal		21	23	39	22	36	564
Totals	3,946	134	53	156	45	137	3,421

TABLE IV.—VICTIMS OF POLITICAL VIOLENCE

Groupings	Total	Total percent	January	February	March	April	May	June
Civilian deaths thru terrorist acts	222	23.02	31	34	19	43	47	48
Civilian deaths thru military operations	23	2.38	2	14	3	1	1	2
Civilian deaths by unidentified persons	676	70.12	154	182	100	96	70	74
Deaths attributed to unknown organizations	43	4.46	14			26	3	
Subtotal	964	99.98	201	230	122	166	121	124
Combat deaths and wounded accepted by the FMLN	1,644		244	387	157	357	254	245
Combat deaths and wounded accepted by armed forces	813		70	102	55	175	225	180
Subtotal	2,457		314	489	212	532	479	431
Total	3,421		515	719	334	698	600	555

TABLE V.—TERRORIST ACTS ACCORDING TO SECTOR AND SYSTEM

System	Type of attack	Total
Electrical	Elect. boxes, towers, posts, transformers	355
Telecommunications	Network posts line cuts	71
TRANSPORTATION		
Private and international mission	Machinegun, dynamite, fire	69
Commercial	Dynamite, fire	7
Passengers		88
Public service		
Cargo	Dynamite	8
Farm work	Fires	4
Railroad	Machinegun-fire	4
Communication	Damage to bridges, roads, railroad bridges and track	17
SECTOR		
Homes-residence		25
Government	Schools, judge offices, courthouses, mayors offices	83
Construction	Vehicles	40
Commercial	Damage to business	7
Banking	Bank	1
Farming	Damage to coffee, cotton, sugar cane fields, stores, factories, production	25
Animal theft	Cattle and chickens	9
Vehicle thefts	Passengers (private and farm equipment)	975
Taking and sacking towns		74

TABLE VI

Terrorist acts	Type of attack	Total	January	February	March	April	May	June
ATTACKS AGAINST ELECTRICAL SYSTEM								
Powerplants	A	31	4	5	7	4	6	5
High tension towers	D	50	5	11	12	9	6	7
Posts	D	221	17	13	16	39	50	36
Transformers	A	18	1	5	4	3	2	3
	D	30	2	2	3	21	1	1
Line cuts	A	5	2		1	1		
Subtotal		355	31	36	43	77	65	52
ATTACKS AGAINST TELEPHONE SYSTEM								
Microwave facilities	A	3			2	1		
System boxes	D		3	3	2	2	9	
Posts	D	44		12	2	2	18	10
Line cuts	A	5	2		1	1		1
Subtotal		71	5	15	7	6	27	11

A: Machinegunning. D: Dynamite. I: Fire. S: Sacking.

TABLE VII

Terrorist acts against transportation	Type of attack	Total	January	February	March	April	May	June
Passengers	A	7	4	1		1	1	
	D	68	12	1	4	46	5	
	I	13	1	6		3	1	
Private vehicles	A	1			1			
	D	37	15	2		18		2
	I	30	8	1	2	16		3
Commercial	D	4	4			3		
	I	3				3		
Cargo	D	5	2			3		
	I	3	1		1	1		



TABLE VII—Continued

Terrorist acts against transportation	Type of attack	Total	January	February	March	April	May	June
International mission	A	1					1	
Farm work	I	4		1				3
Subtotal		176	47	12	10	91	8	8

A: Machinegunning. D: Dynamite. I: Fire. S: Sacking.

TABLE VIII

Terrorist acts	Type of attack	Total	January	February	March	April	May	June
Against homes	D	15	7	5		3		
	I	1						1
	A	1						1
	S	8						
Subtotal		25	15	5		3		2
Damage to bridges:								
Road	D	12	2	2	2	2	3	1
Railroad	D	5	2				3	
Subtotal		17	4	2	2	2	6	1
Against business								
Mills	D	2				2		
	I	4	3	1				
Processing plants	D							
	I	3	2				1	
Farms	I	4	3			1		
Factories	I	2				1		1
Subtotal		15	8	1		4	1	1

A: Machinegunning. D: Dynamite. I: Fire. S: Sacking.

TABLE X

Terrorist acts	Type of attack	Total	January	February	March	April	May	June
DAMAGE TO GOVERNMENT FACILITIES								
Telephone offices	D	5	1	1		2		1
	I	6	3		1		1	1
	A	2		1				1
Municipal mayors offices	D	2			1			1
	I	6	1	1		3	1	
Local police offices	D	5		1		2		2
	I	2	1					
Judicial offices	D	1			1			
	I	1			1			
Plants	I	2		1				
	I	2				2		
Schools	A	2				2		
	S	4	1		2	1		
Stores	D	1			1			
	I	1			1			
Subtotal		40	7	5	8	12	2	6

A: Machinegunning. D: Dynamite. I: Fire. S: Sacking.

TABLE XI

Terrorist attacks	Type of attack	Total	January	February	March	April	May	June
ATTACKS AGAINST BUSINESS								
Radio transmitter	D	1				1		
Gasoline station	D	2				1	1	
Commercial facilities	D	5		4	1			
Subtotal	D	8						
Damage to crops								
Coffee	I	4	3				1	
Cotton	I	2	2					
Sugar	I	5	3	1		1		
Subtotal		11						
Theft of animals								
Cattle and products		7	2		1		2	<sup>a</sup> 2
Chicken		2		<sup>a</sup> 1	<sup>a</sup> 1			
Subtotal		9						

<sup>a</sup> 5,500g. <sup>a</sup> 7,500g. <sup>a</sup> 129g.

A: Machinegunning. D: Dynamite. I: Fire. S: Sacking.

TABLE XII

Terrorist acts	Type of attack	Total	January	February	March	April	May	June
DAMAGE TO GOVERNMENT FACILITIES								
Bank	D	1					1	
Public health facility	S	1				1		
Destroyed vehicles	D	23			10	12		1
	I	8	7	1				
Cutting pipe line	C.T.	2	1	1				

TABLE XII—Continued

Terrorist acts	Type of attack	Total	January	February	March	April	May	June
Railroad.....	D	2				2		
	I	2				2		
Rail line.....	Sab.	1						
Station.....	D	1			1			
TV repeater.....	D	2					1	1
Subtotal.....		43	8	2	11	17	3	2
Attacks against construction companies.....	D	40	20		13		7	
Vehicles.....								
Theft.....		1	1					
Passengers.....		970	117	119	169	221	182	162
Private.....		4	2			2		
Farm work.....								
Subtotal.....		975						
Takeover and sacking towns.....		74	3	10	6	16	24	15

A: Machinegunning. D: Dynamite. I: Fire. S: Sacking. ●



**HOUSE OF REPRESENTATIVES—Wednesday, August 17, 1983****REPORTS OF COMMITTEES ON  
PUBLIC BILLS AND RESOLU-  
TIONS**

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

*[Pursuant to the order of the House on August 3, 1983, the following reports were filed on August 9, 1983]*

Mr. DINGELL: Committee on Energy and Commerce. H.R. 555. A bill to amend the Federal Power Act to limit the recovery by public utilities of certain costs of construction work in progress through rate increases; with an amendment (Rept. No. 98-350). Referred to the Committee of the Whole House on the State of the Union.

Mr. DINGELL: Committee on Energy and Commerce, H.R. 3244. A bill to amend the Energy Policy and Conservation Act to eliminate preemption of a State's authority to establish or enforce any energy efficiency standard or similar requirement if a Federal energy efficiency standard has not been established (Rept. No. 98-351). Referred to the Committee of the Whole House on the State of the Union.

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□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

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## EXTENSIONS OF REMARKS

INDUSTRIAL POLICY: THE  
WRONG ECONOMIC PRESCRIPTION

HON. DAN LUNGREN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 4, 1983

● Mr. LUNGREN. Mr. Speaker, in recent months there has been increased discussion among Members of Congress, economists, and academicians concerning a national industrial policy.

Many industrial policy advocates paint a black or white picture. They suggest that either the United States can adopt a comprehensive, coordinated strategy in our Government policymaking so that our economy can better compete in the international marketplace, or if we do not enact such a program continued economic decline lies in store.

At first glance, it would seem difficult to oppose any concept which attempts to better coordinate Government policy. I became particularly interested in this issue because a proposal such as this could have significant impact on one of the largest trading complexes in the country (namely, the Port of Long Beach and the Port of Los Angeles) and the many businesses which it is my privilege to represent in my district. I also wanted to see if a so-called industrial policy program was the best means by which we could best improve the ability of our economy to compete and produce.

Because of the many unanswered questions over this issue, I recently had the opportunity as a member of the Joint Economic Committee to participate in a series of hearings on this subject. The two hearings which I chaired explored, first, "The Concept of Industrial Policy" and, second, "Japanese Industrial Policy: Lessons for America," looking at many of the real reasons behind Japan's economic success.

After studying this issue extensively for sometime now, I must express grave reservations over the industrial policy bills which are being considered and have been introduced in the Congress.

Mr. Speaker, because of this, I would like to express some of the primary reasons why I believe a national industrial policy would inhibit rather than promote U.S. economic growth and competitiveness abroad. To adopt such a program, I fear, would simply be the

wrong economic course for our country to follow.

## THE BURDEN OF PROOF RESTS ON THE ADVOCATES

First, the point must be stressed that there is a heavy burden of proof which rests on the proponents of industrial policy to show that the capacity for a healthy economy or our country's ability to compete internationally necessarily hinges on some governmentally established industrial policy board. To date, that burden of proof has not been met to any significant degree.

The question being asked in the debate on this issue is whether the United States should have a comprehensive industrial policy. The heart of this question centers on what the proper role of Government in the economy should be.

## INCREASED INTERVENTION WOULD RESULT

Most supporters of industrial policy state that their primary objective is to coordinate Government policy. However, upon further evaluation of their proposals, one finds that industrial policy represents a dramatic, even revolutionary, social, political, and economic change in the basic functions of Government.

While many advocates will stress the need for greater cooperation among Government, labor, and business, virtually every proposal which has been advanced would simply result in greater intervention in the economy by the Government. Such a plan would typically require that the company or industry give up some right or meet some conditions in exchange for Government support or assistance. Those who support this quid pro quo concept, must show that increased intervention above and beyond the many smaller interventions the Government has made in the past necessarily improves the health of the economy.

Before our Government adopts a radical change, it must be shown beyond a shadow of a doubt that an industrial policy board will truly address the underlying problems it proposes to resolve.

Instead of looking at our already existing institutions, industrial policy supporters want to create more Government-sponsored and/or -dominated institutions. I contend that the essential positions and institutions are already in place to do a better economic job than has been done in recent years. Many believe that the Washington complex has already become too big of a bureaucracy. Why will more or bigger mean better?

INCREASED CENTRALIZATION IN A  
DECENTRALIZING ECONOMY

Second, I have concern that enacting an industrial policy would centralize the decisionmaking process in Government at a time when the economy and country are moving toward increased decentralization.

As John Naisbitt, author of *Mega-Trends* and a recent witness before the Joint Economic Committee, has written:

Centralized structures are crumbling all across America. But our society is not falling apart. Far from it. The people of this country are rebuilding America from the bottom up into a stronger, more balanced, more diverse society \* \* \* Americans are spreading out of small towns and rural areas and leaving the old industrial cities as decaying monuments to a past civilization. As we decentralize, we diversify and tend to stress our differences instead of our similarities.

A national industrial policy would be going against the natural shifts and adjustments toward decentralization that are currently occurring.

## POLITICIZATION OF DECISIONMAKING

Third, I believe that a politicization in a national industrial policy would occur. Instead of making economic policy decisions based upon economic merit, political choices would repeatedly prevail.

In reviewing some of the past decisions made in Washington one does not need a crystal ball to conclude that a politicization of the proposed process would inevitably result.

For example, in 1951 the Senate Banking and Currency Committee investigated the Reconstruction Finance Corporation, which, incidentally, is very similar to the Industrial Development Bank being proposed in many of the industrial policy measures. Senator Fulbright, then chairman of the Senate Banking Subcommittee on Reconstruction Finance Corporation, stated that—

There's been a large number of instances in which the board of directors of the Reconstruction Finance Corporation (RFC) has approved the making of loans over the adverse advice of the corporation's most experienced examiners and reviewing officials, notwithstanding the absence of compelling reasons for doing so and the presence of convincing reasons for not doing so.

According to the Senate report, the RFC "thrusts money on the proprietors of roadside snake farms, cultivators of cactus plants for sale in dime stores, dental clinics, paperboard makers, \* \* \* a rainbow trout factory, and some very devious fellows who



wanted to be concessionaires for the roulette room in a Nevada hotel."

A more recent example of politics overcoming economic merit was the recent passage of the so-called jobs bill. This was the measure which was supposed to help address the problems of millions of unemployed Americans. Instead of targeting the assistance to those areas of the country with the highest levels of unemployment, much of the Government support appears to have gone to the congressional districts of the Members whose committee happened to have jurisdiction over the bill. Indeed, \$33 million was appropriated and obligated for a highway widening project in the House committee chairman's district. That fact is certainly not a criticism of any Member; rather, it is a criticism of the system which promotes such results. No wonder a July 9 editorial in the New York Times stated that "Congress does better at creating jobs programs than creating jobs."

Little evidence has been brought forth by industrial policy supporters to show that politics, not reason, will prevail in the decisionmaking by an industrial board or Industrial Development Bank. Senator WILLIAM PROXMIER perhaps stated it best when he wrote:

Money will go where the political power is; it will go where unions are mobilized, where mayors and governors, representatives and senators have the power to push it. Anybody who thinks that the government resources will be allocated on the basis of merit hasn't been in Washington very long.

#### PICKING WINNERS AND LOSERS IS INEVITABLE

Fourth, most industrial policy advocates claim that industrial boards would only offer suggestions for consideration by the Congress, but it seems to me the inevitable result would be the picking of winners, or picking of losers, or picking winners and losers. Despite the good intention of trying to achieve greater cooperation among the major economic actors, the process of determining which industries to support or where to allocate capital is, in effect, deciding which groups will benefit at the expense of other groups.

This is perhaps the key point: Government cannot create real credit or capital any more than it can create wealth. It can only reallocate already existing credit, capital, or wealth.

Moreover, I seriously question the ability of any board of government bureaucrats to make such predictions as to winners or losers. Who, for example, in the Government after World War II could have foreseen that research with grains of sand would lead to the development of the high tech industry as the industry of economic growth and new jobs in the near future?

Dr. Robert Noyce, cofounder of Fairchild Semiconductor and Intel Corp. and a National Medal of Science recipient, told the Joint Economic Committee how difficult it is to pick winners and losers as an active participant in the marketplace, not to mention the arduous task that would confront some government panel. He testified:

Since I have spent most of my life in entrepreneurial high technology business, I should be better than most in picking winners and losers. Yet I advised my wife a few years ago not to invest in the local start up which has turned out to be the most successful in American Industrial History to date—Apple Computer \* \* \*. I'm fortunate that my wife, like most, did not take my advice.

If anything, experience shows that the Government probably has a better record picking losers than it does winners.

#### REPRESENTATION ON THE INDUSTRIAL BOARD

Fifth, while the intent of an industrial policy would be to reach consensus decisions through cooperation, I am also concerned that in attempting to do so they would leave many important economic actors completely out of the picture. Most proposals would allow big business, big labor, big government to serve on and dominate some industrial board.

Many of the so-called new sunrise industries have expressed concern to me that under an industrial policy they would not be on an equal footing with some of the more traditional industries in presenting their views in Washington.

Even if room could be made to ensure the representation of all involved, it is in fact the larger companies and entities which are best prepared to use their own bureaucracies to deal with the Government bureaucracies. This would leave smaller firms at a competitive disadvantage.

Since small businesses—which comprise more than 95 percent of the total number of businesses in the United States—supply more than 80 percent of all new employment, almost 40 percent of our gross national product, as well as half of all major innovations and new technologies, one must seriously question the wisdom of creating a centralized, national industrial board.

#### INDUSTRIAL DEVELOPMENT BANK WILL DISTORT THE ECONOMY

Sixth, my strongest objection concerns a proposed industrial development bank board to directly reallocate credit and capital. In addition to the arguments I raised earlier concerning the politicization of the decisionmaking process and the inability to select winners and losers, I fear that such a bank would unnecessarily distort adjustments occurring within the economy.

The important point to be reiterated here is that such a board would not be

creating credit, but rather allocating credit which might otherwise have gone to other growing sectors of the economy.

This is the experience which occurred in Korea. The government there directed the credit in the country to certain selected industries. While the chosen industries were successful to a limited degree, the success was not achieved without costs being imposed on the overall Korean economy. For all intents and purposes the nontargeted industries had an unlegislated tax imposed on them since it was more difficult for them to obtain capital.

Mr. Kim Kihwan, of the Korea Development Institute in Seoul, has written that—

The basic message from this experience is that excessive intervention in the market creates inefficiencies which eventually hurt economic performance. By creating a deep and prolonged gap between the real and the effective cost of capital in certain industries and by discriminating excessively among industries, the policies contributed to both a slowdown in export growth and adverse developments in equity and income distribution. . . . The policy of extending preferential access to credit and treatment in taxation to strategic industries is being phased out. In its place the government is moving toward an incentive system which is neutral with regard to firms and industries and which will allow the effective cost of capital to more accurately reflect the true cost.

Since capital is not being created within the economy, the effect of allocating credit by the Reconstruction Finance Corporation would target resources to some at the expense of others in the economy. This is analogous to a balloon or waterbed, which when depressed pushes outward on the opposite side while the total amount of air or water has remained constant. The point is that a greater cost on the economy is incurred by politically targeting resources to certain sectors over other sectors rather than allowing the cumulative effects of individual decisions in the marketplace to prevail.

#### WE MUST STRESS THE ECONOMIC FUNDAMENTALS

Because I do not believe that the burden of proof that an industrial policy is needed can be met, government policy should instead concentrate on a return to the fundamentals. We do not need a national industrial policy to stress the basics.

An editorial in the Wall Street Journal put it best:

The only industrial policy we need is one that offers the maximum possibility for individual decision makers to apply their initiative and imagination, take their risks and reap the rewards when their judgments are correct. As a group they will be right far more often than government bureaucrats not subject to the disciplines and incentives of the market.

Instead of allocating credit within the economy or targeting specific in-

dustries, we should focus on legislation to increase the amount of savings, research and development, incentives to work, invest and produce, and improve the quality of education our students receive. We should concentrate on promoting free trade throughout the world and U.S. competitiveness in exports. The Government policy objective should be the development of sound fiscal and monetary policies that avoid unnecessary shifts in response to every change in the economy. I also believe that the Government has a valuable role to play in encouraging worker retraining programs to assist with the transitions that are taking place within the economy.

But to achieve these objectives, a return to the fundamentals rather than the creation of a national industrial policy board is the key for establishing the foundation for increased jobs and sustained economic growth. That in the end should be the aim of our policies.

THE BEST AND THE BRIGHTEST ARE NOT HERE IN WASHINGTON

Mr. Speaker, there are many other points I could raise against the consideration of an industrial policy, however, if there is anything I believe we should have learned from our experience in Vietnam, it is that the best and the brightest have not necessarily been proven to be in Washington. I am especially not convinced that a panel of bureaucrats can or should make decisions that have been traditionally made individually by American consumers, workers, investors and businesspeople.

Those who advocate an industrial policy have an overwhelming burden of proof to carry in order to show that an industrial policy is needed to increase jobs and improve economic growth.

#### THE DAY OF SOVIET SHAME

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 4, 1983

Mr. GILMAN. Mr. Speaker, it was 15 years ago, on August 21, 1968, that over half a million Soviet and Warsaw Pact troops invaded the sovereign state of Czechoslovakia. This flagrant violation of international law, the "Day of Soviet Shame" was the final episode in what had been a moderating period for the Soviet-dominated state.

Today I urge my colleagues to never forget the plight of Czechoslovakia, whose people have always been steadfast friends of our Nation. The many Czech, Slovak, and Subcarpatho-Ruthenian descendants living in the United States have contributed greatly to the continued growth of our coun-

try; they are amongst this Nation's most loyal citizens.

The people of Czechoslovakia have been enslaved by the illegitimate government that took power 15 years ago, firmly entrenched in the blind ideology of the Soviet Union. The continued occupation of that country is a crime against the right to determine one's goals and destiny. Czechoslovakia has been denied this right, its people enslaved by the arm of Soviet domination and paranoia.

Mr. Speaker, I ask that we renew our resolve against Soviet domination in Czechoslovakia. The brutal silencing of this freedom loving people is a constant reminder of the Soviet Union's flagrant violation of international law.

On this, the anniversary of the Soviet invasion of Czechoslovakia 15 years ago, I ask that my colleagues join me in decrying the continued Soviet military presence in that nation. We must never forget the courageous men and women of Czechoslovakia, as we are their only hope.

#### DISINVESTMENT STUDY

HON. CHARLES WILSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 4, 1983

Mr. WILSON. Mr. Speaker, the idea of portfolio disinvestment of holdings in U.S. firms doing business in South Africa has beguiled State and municipal assemblies and university trustees over the past year. It is seen by its proponents as a way to damage the economic prospects of that country, and cause it, thereby, to alter its domestic policies. It is also seen, somewhat mysteriously, as a benefit to the black population of South Africa. However well meaning these initiatives are, their impact on South African black employment certainly promises to be negative, and their cost to the pension and other trust funds affected is definitely so—as indicated by such observations as those hereto appended.

Mr. Speaker, another point missed by these initiatives is the leadership role played by U.S. firms in improving employment, health, and educational opportunities for nonwhites in South Africa. In the past few years U.S. firms have invested some \$50 million toward these objectives.

Mr. Speaker, it is both natural and proper for Americans to seek measures to bring justice to any part of the world where injustice obtains. But I would hope that this particular expedient has run its course, before it does any further damage to our own society as well as the people we are trying to help in South Africa.

I submit the following articles to be printed in the RECORD.

[From Pensions & Investment Age, June 13, 1983]

#### SOUTH AFRICA INVESTMENT STUDY

##### HIGHER RISKS, LESS DIVERSITY SEEN IN DIVESTED PORTFOLIOS

COLUMBUS, OHIO.—Divesting the stock of companies doing business in or with South Africa could have "significant consequences" for a pension fund, an Ohio group states.

According to a report by the Ohio Retirement Study Commission, higher risks and less diversification could result from total divestiture.

But the study also states "it is debatable whether divesting and excluding 'South African investments' achieves anything."

"There is . . . somewhat more support for the proposition . . . supporting a policy which pressures American companies to set a good example in their South African operations . . ."

The study was conducted by the commission at the request of the Ohio Legislature in response to two bills that would affect portions of the five state public pension funds. The funds have assets totaling more than \$11 billion.

Both bills would prohibit investment in American corporations that have any business relationship with South Africa or investments located in South Africa.

One bill adds an additional prohibition against investing in any bank or building and loan association that makes loans to either the South African government, South African businesses or a subsidiary or affiliate of a U.S. company operating in South Africa, according to the study.

Both bills are broadly drawn and the aim is the same—to help institute an economic boycott against South Africa, the study adds.

The commission raises—and attempts to answer—four questions about the restriction of pension fund investments in U.S. companies with South African business operations:

Would a restrictive investment strategy result in a lower rate of return on investments, thus jeopardizing future pension benefits?

Would the use of restrictive investment criteria violate the legal and fiduciary responsibilities of the pension fund trustees?

Would such a strategy, in the aggregate, influence American corporate policy in this area?

Would the strategy influence the South African government in the area of race relations?

The commission said that while the evidence is not conclusive that lower returns would result, higher risk and lower diversification might indeed result. However it said that as long as other investment opportunities offer equal return potential, and there are no diversification problems, South Africa related companies could be excluded without violating the trustees' responsibilities.

The study added it was debatable whether such a strategy would affect policies directly because South Africa is not overly dependent on U.S. investments.

Although few public pension funds have adopted restrictive investment strategies dealing with South Africa, those that have fall into three categories, according to the study.

Some funds have opted for a total divestment/exclusion portfolio strategy; a second group has followed a "selective divestment/exclusion" strategy where a set of criteria



are used in a company-by-company approach; and still others have opted for a "concerned or active shareholder" strategy. This last approach enables the investor to become an active participant in supporting various shareholder resolutions on South African issues as they relate to U.S. companies.

The commission study suggests adopting either the second or third strategies.

If the Ohio Legislature approved a bill requiring total divestment of the five Ohio funds, 15% to 20% of the combined assets, about \$1.98 billion, would be affected, according to 1980 data used in the report.

The study asserts a policy of total divestiture could have "significant consequences and might result in lowered returns, higher risks and less diversification."

However, should the second option be adopted—following a very selective divestment/exclusion policy, only 1% to 2% of the combined assets might be affected, depending on the policy's wording.

If the third option were adopted, there would be no effect on the Ohio funds, the study said.

Oddly enough, Ohio laws already contain language encouraging investment in Ohio-based companies. The Commission said that 4%, or \$253 million, of the Ohio State Teachers Retirement System assets was in "Ohio companies" that do business in South Africa. Total investments by the system in companies doing business in South Africa were \$1.3 billion—21%—as of Jan. 1.

The commission also studied the cost of adopting each policy.

Three areas in pension fund management were found to be costly when pursuing a policy of restricted investments.

The first and most important cost would be that the portfolio becomes less attractive in terms of return, risk and diversification, according to the commission.

Second, if a major divestment or exclusion strategy is adopted, large transaction costs would result.

Using transaction cost statistics taken from a State of California Retirement System's study, the commission calculated a minimum transaction cost of between \$30 million and \$40 million would ensue to the Ohio funds as they stood in 1980.

Another cost to the Ohio funds would be the staff time required to institute and maintain the restrictive investment policy.

[From Pensions & Investment Age, June 13, 1983]

#### DIVESTMENT: INFORM THE TAXPAYERS

Once again, the issue of investing in companies doing business in or with South Africa is heating up. As reported elsewhere in this issue, 22 states and eight local governments are confronted with legislation requiring their pension funds to divest themselves of the stocks of companies with South African connections.

Those pushing such legislation are attempting to make a political statement of their revulsion at the South African policies of apartheid.

Those opposing the legislation are concerned about the impact of divestiture on the investment returns earned by the public employee pension funds and, ultimately, on the taxpayers who, in most cases, have not been consulted about the proposed restrictions.

Proponents argue that the divestiture would have no impact on the investment returns, and often refer to limited studies in

which investment returns actually have been improved by such divestiture.

Opponents argue in response that the cases cited by proponents deal with only small funds, not with funds investing billions of dollars and that the studies have not considered the relative risk of the South Africa-free portfolios.

Closer examination of one example by Prof. Roy Schotland of Georgetown University Law School showed the South Africa-free portfolio was 16% riskier than the portfolio free to invest in South Africa, yet provided investment returns only 3% greater.

That is, in this instance, the risk-adjusted returns of the portfolio prohibited from South Africa-related stocks was significantly lower.

In addition, as Prof. Schotland and others point out, the restricted portfolios are necessarily less liquid, causing problems for the billion-dollar state and local government pension plans.

Thus, long-term investment returns are likely to be lower, means higher taxes or lower benefits.

The problem with such restrictive legislation is that political activists are attempting to use public monies to make statements. Others might oppose apartheid, but believe that divesting funds of the stocks of companies doing business in South Africa is a useless gesture.

Before such restrictions are placed on any public pension fund, there at least should be full public discussion of the potential costs of such restrictions to the taxpayers and beneficiaries, and then there should be a referendum.

Only if the taxpayers are fully informed that such a restriction might increase their taxes or might reduce future benefits for the beneficiaries, and then vote in favor of it, should such a restriction be imposed.

[From the Boston Herald, May 25, 1983]

#### WE HURT OURSELVES

Punching oneself in the mouth in order to make a protest against the brutality of a bully in another corner of the world sounds pretty stupid. Right?

Well, don't laugh too soon. We're doing just that here in Massachusetts. So far it has cost us \$14.4 million worth of pain without even bruising the bully, and it could cost us even more in the very near future.

We're saddled with a public pension system that is so deep in the hole financially that it is just about out of sight—and it's getting deeper every day. Yet four months ago our state government, as a means of showing its opposition to the repressive racial policies of South Africa, chose to unload its stock holdings in firms doing business with that nation. In doing so we took a loss that came straight out of the pension funds for teachers and state employees which were used to make those investments. Now that Governor Michael S. Dukakis has approved a similar "divestiture" law covering our investments in companies with business links to Northern Ireland, our losses will in all likelihood mount.

The apartheid in South Africa, injustices committed on both sides in Ulster, are all abhorrent to the majority of Massachusetts residents.

But what are these measures achieving? Are there blacks in South Africa liberated today because of the sacrifices of the Commonwealth of Massachusetts? Are the two sides in Ulster closer to peace because of the gestures of the Dukakis administration?

What confuses us in all this is the fractured logic that has been employed in high places.

Sure, the South African regime is not run by a bunch of nice, humane guys.

But maybe Mr. Dukakis should check out some of the other nations who are pumping millions of dollars of imports into this country.

The Saudis, for instance. Next time Mr. Dukakis fills up his gas tank he might remember that the sheikhs sitting on all that oil treat women about as well as many of his electors treat their household pets.

And India. We guess Mrs. Gandhi would be invited to the State House if she showed up in town. Yet the manner in which her nation has abused and dispossessed The Untouchables is one of the most shocking in history.

And what about the Soviets and how they have treated the Ukrainians, the Tadzhiks the Uzbeks? Any Dukakis plans for a ban on business with them?

The list goes on, but it would be laboring the point.

Divestiture is futile. Like a self-inflicted punch on the nose, the only pain we'll notice is our own. ●

#### SALUTE TO MARGARET S. PLUMMER

#### HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 4, 1983

● Mr. MILLER of California. Mr. Speaker, on August 10, 1983, Mrs. Margaret S. Plummer of Martinez, Calif., will be honored for her service in the National Weather Service's Cooperative Weather Observer program. I am pleased to have this opportunity to salute Mrs. Plummer and want to share her contribution with my colleagues in the House of Representatives.

The Commerce Department's National Oceanic and Atmospheric Administration recently paid tribute to Mrs. Plummer's more than 31 years of continuous and exceptional service as a volunteer in the field of meteorological observations by awarding her the John Campanious Holm Award. Although many of us in this Chamber may not realize the significance which this award carries, Mrs. Plummer may be duly honored to receive one of the highest awards granted by cooperative service. This award is named after Rev. John Campanious Holm, who, in 1644, took the first known weather observations in this country, without the use of instruments.

In this period of budget cutbacks and staff shortages, volunteers play an increasingly important role in maintaining vital services to the community and the Nation. With more than 12,000 of her fellow volunteers, Mrs. Plummer has helped document our Nation's climate with dependable and accurate daily records of temperature and precipitation. I join the residents

of Contra Costa County and the staff of the Commerce Department's NOAA in congratulating Mrs. Plummer and wishing her much success in the future.●

**LIBRARY OF CONGRESS INCIDENT SHOWS HOW POORLY WE ARE ABLE TO DEAL WITH JAPAN—WAKARIMASEN**

**HON. FORTNEY H. (PETE) STARK**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 4, 1983

● Mr. STARK. Mr. Speaker, in the past, I have expressed concern to my colleagues in Congress about the disparity of the amounts of technical information flowing from the United States to Japan and from Japan back into the United States. I have suggested that the root of this problem lies in the lack of qualified personnel in this country with the ability to translate often times important Japanese technical and scientific information into English. I began to look for a possible solution or at least a means toward improving the imbalance. It seemed to me that the most obvious course of action was to look at how those whom we are competing with have achieved so much more success in the accumulation, translation, and dissemination of worldwide technical information—namely, the Japanese.

My staff called the Japanese Embassy to obtain two Japanese laws that established the Japanese Information Center for Science and Technology, a state-run organization in that country that has as its primary purpose the collection and dissemination of foreign technical information. I thought that perhaps I might be able to use these laws as models for similar U.S. legislation. There was one problem, however: the laws given to me were printed—naturally—in their native Japanese.

Mr. Speaker, I, of course, thought this was just a minor and very temporary setback. As a Member of Congress, I have at my disposal the greatest library, resource center, and reference center in the world—the Library of Congress. Surely, I believed, they would have no difficulty translating a legal document of one of the world's most influential nations—a nation famous for its 1,000-year history of great literature and modern-day Nobel laureates. Unfortunately, the Library's translation service had no one currently on the staff fluent in legally technical Japanese and, thus, they were unable to fulfill my request, although they offered to contract the job out for \$900 or \$64 per page. But, they assured me that if I ever needed anything translated from such technologically powerful languages as Lithuanian or Romanian, there would be no

problem. In fact, even if a major technological breakthrough were developed by a Roman writing in Latin, they could handle it. Yet, for Japanese—that insignificant language of the largest research population per capita in the world, the language of industry that is quickly eroding the premier position of U.S. industry in the automobile, steel, and electronics markets—for Japanese, there was no need for a technical translation service.

Mr. Speaker, I am not critical of the Library; perhaps they simply do not get many requests for the translations of Japanese technical documents. But I am critical of the prevailing attitude in American industry and government that believes we can afford to ignore the wealth of original and creative technical advances currently being developed in Japan.

I am sharing this story with you simply because the stark reality, no pun intended, of the situation is that unless we improve the flow of technical information from Japan into our own country by asking for more Japanese technical and scientific information, we will quickly find ourselves behind our Japanese competitors with no chance to catch up again. In the meantime, I will get these documents translated, even if it means asking the Japanese Government to do what the American legislative branch cannot—translate Japanese into English.●

**PERSONAL EXPLANATION**

**HON. GARY L. ACKERMAN**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 4, 1983

● Mr. ACKERMAN. Mr. Speaker, due to official business, I was unable to be present on the floor during two rollcall votes on August 4. Had I been present, I would have voted "aye" on rollcall 321, approving the journal of August 3, and "aye" on rollcall 327, approving House Resolution 299, the rule on H.R. 3391, Trade Act of 1974 Amendments.●

**COMMODITY DISTRIBUTION AMENDMENTS TO H.R. 3409**

**HON. LEON E. PANETTA**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 4, 1983

● Mr. PANETTA. Mr. Speaker, today, August 4, 1983, both the House and Senate approved amendments to H.R. 3409, the Federal Supplemental Compensation Act amendments, that would expand and extend the current Federal program to distribute Government-owned surplus commodities to needy persons and institutions such as schools, child care centers, and elderly

feeding programs. As I mentioned on August 4, these amendments represent a compromise that was hastily drawn just prior to House and Senate passage. As a consequence, there may be conflicting interpretations as to what was agreed upon. As the primary House Member involved in these negotiations and in my capacity of chairman of the Subcommittee on Domestic Marketing, Consumer Relations, and Nutrition of the Committee on Agriculture, I would like to present my understanding of what was agreed to. In general, it is my belief that where congressional intent is ambiguous or unclear, the issue should be resolved in a manner consistent with the commodity distribution bill passed by the House, H.R. 1590.

Basically, H.R. 3409 includes the most important elements of H.R. 1590, the Emergency Food Assistance and Commodity Distribution Act of 1983, that was passed by the House on June 16, 1983, by a 389 to 18 vote. The bill is not simply an extension of the commodity distribution program mandated in the jobs bill, Public Law 98-8, but represents an expansion and revision of that program. It includes various provisions and concepts taken from H.R. 1590, S. 17 (the bill passed by the Senate Committee on Agriculture, Nutrition, and Forestry), and Public Law 98-8.

The bill would mandate operation of a commodity distribution program for 2 years. It would require the Secretary of Agriculture to distribute, without charge or credit, all available price supported commodities acquired by the Commodity Credit Corporation and not committed for another use to eligible recipient agencies. While the Secretary would have discretion to determine what quantities of commodities are in excess of those needed for other commitments, his discretion would not be unlimited. The Secretary would be expected to have specific other uses in mind in order to withhold distribution of available supplies of commodities. The law requires him to "make maximum use of the Nation's agricultural abundance."

H.R. 3409 would generally continue distribution to the same recipient agencies eligible under Public Law 98-8. The list of eligible agencies in the bill is not intended to be exclusive. The Secretary and the States would have discretion to authorize participation of other agencies that generally serve the purposes of the act. The reference to the eligibility of charitable institutions, to the extent that needy persons are served, is not intended to be a strict limitation on these institutions such that only needy persons within them can be served. It is intended to limit participation to charitable institutions that serve, at least in part, needy persons.



H.R. 3409 would require that commodities generally be provided to emergency feeding centers on a priority basis. As Senator DOLE pointed out in the August 4 Senate floor debate, this would not be an exclusive priority. Traditional outlets such as schools would continue to receive their historical share of these commodities. If additional commodities are available, those serving the needy would generally have first call on them.

Under these amendments, the Secretary of Agriculture would continue to be required to pay for the costs of initial processing and packaging of commodities into forms and quantities suitable for household and institutional use, as well as the costs of transporting commodities to the States. He would be authorized to pay such costs from funds of the Commodity Credit Corporation or utilize any other funding at his disposal. The Secretary would not be permitted to utilize any of the \$50 million in annual appropriations authorized under H.R. 3409 for State and local administrative costs to pay for initial processing and packaging of commodities, or transporting them to the State or local level.

The up to \$50 million in annual funding authorized for State and local administrative costs is to be made available in advance upon request of eligible recipient agencies. The Secretary and the States would have discretion to assure that advance funding requests are reasonable. However, the availability of advance funding is a key element in assuring maximum effectiveness in program administration, and the Secretary should facilitate adequate advance funding for eligible agencies, up to the limits specified in this bill.

A minimum of 20 percent of the funding under this bill is to be made available to agencies that directly serve needy persons. The remainder of the funding is to be utilized by the States generally to cover the costs of storage and distribution to all eligible outlets, including both emergency feeding outlets and traditional outlets such as schools, child care centers, elderly feeding programs, and others.

The plain language of the bill governs the use of the administrative funding authorized. There is no direction in the bill, and no intention on the part of Congress, that States use storage and distribution funds provided under the authorization exclusively for costs relating to emergency feeding centers. There is no intention on the part of Congress to require States to maintain systems to account for which storage and distribution costs have been incurred in relation to emergency feeding centers and which costs have not. If it had been intended to limit the States ability to utilize the funding to cover the costs of distributing commodities to emergency agencies, it

would surely have been so provided in the law. I understand this may involve a change in how administrative funding has been distributed under Public Law 98-8 and this is precisely what is intended.

I would emphasize that no administrative funding is to be provided directly to schools and other traditional outlets to cover their costs once they have received commodities. However, the States would be expected to utilize funding available to them, after the 20-percent allocation to emergency feeding programs, to generally pay the costs of storage and distribution in relation to all eligible outlets.

One additional area addressed by H.R. 3409 concerns the eligibility of persons to receive commodities through agencies that distribute to individual households. H.R. 3409 makes clear that only those persons who meet some needs test would be eligible. The determination of who is needy would be left to the States, subject to the approval of the Secretary.

I do think this is a constructive change and should help address whatever problems there may be in the displacement of commercial sales of commodities when nonneedy persons receive commodities. I would emphasize that this change would not authorize the Secretary to issue specific, uniform, eligibility requirements for this program. That determination should be left to the States. The Department may want to issue general guidance and guidelines to assist States. However, I believe it would be a serious error to limit participation in this program only to persons who are already participating in other programs, such as food stamps, supplemental security income, and aid to families with dependent children.

This commodity distribution program needs to be available for all the persons in our society who "fall through the cracks." There are many people who either are not eligible or choose not to participate in these programs, but are in great need of food assistance.

That concludes the major points I wanted to make about the contents of the bill. I would like to add a few comments about the process that led to its final passage and several provisions that were not included in the bill.

Late this afternoon, August 4, 1983, I learned that the Senate intended to add commodity distribution amendments to H.R. 3409. These amendments were to be added in such a way that, as a practical matter, no conference would be possible. Since the House had already passed the unemployment compensation amendments in H.R. 3409, the Senate intended to add the commodity distribution amendments to them and immediately adjourn for the summer recess. This meant that any objection on the

House side to the commodity distribution amendments would not only jeopardize that part of the bill, but also the unemployment compensation in benefits that H.R. 3409 would provide for many Americans.

When I learned of this situation, and after consulting with ranking minority member, BILL EMERSON, I attempted to gain some changes in the Senate amendments to make them more consistent with H.R. 1590. While some of these proposed changes were accepted, several important provisions were not.

Two provisions of H.R. 1590 relating to the replenishment of the food security wheat reserve were not included in the Senate amendments. Similarly, specific provisions relating to the level of commodities provided to schools and other traditional outlets and the use of administrative funding to deliver commodities to these outlets were not in the final bill. While I believe these latter concerns in relation to traditional outlets should be adequately addressed when the administration implements the law, the protections for the food security wheat reserve have been weakened.

I relate all of this history so that the many Members who have expressed interest in various aspects of this legislation will better understand why it was dealt with so summarily on August 4, 1983. While I believe that the legislation that has emerged is very worthwhile—a 2-year program has been set in place, administrative funding has been provided—I would have much preferred if several additional provisions from H.R. 1590 had been included. Unfortunately, it was not possible under the circumstances despite our best efforts.●

#### BETTER LIFE FOR ELDERLY IS LEGACY OF OLDER AMERICANS ACT

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 4, 1983

● Mr. MATSUI. Mr. Speaker, the 1973 amendments to the Older Americans Act, which first became law in 1965, brought forth the concept of area agencies on aging to develop and coordinate needed services for the Nation's increasing numbers of elderly citizens.

Today, area agencies on aging have become valued institutions in America's basic social service structure. The value of that landmark legislation is demonstrated daily through the services rendered by these agencies.

I am pleased to draw to the attention of the House of Representatives the accomplishments of one such agency in particular, the Area 4 Agency on Aging in California. This agency serves over 165,000 senior citi-

zens in the counties of Nevada, Placer, Sacramento, Sierra, Sutter, Yolo and Yuba.

The increased awareness we have today of the problems of the elderly had been long in coming. Thanks to the historic work of the Johnson administration and the Congresses of the 1960's, America began to take note of the financial and emotional hardships suffered by many of our elderly in a turbulent, youth-oriented society.

Mr. Speaker, while our Nation has become more aware of not only the problems of the elderly, but also of the real contributions of the elderly, we are still a long way from realizing the dream of secure, dignified retirement for all our citizens. But we have made progress, and the area agencies under the Older Americans Act are part of that progress.

The Area 4 Agency on Aging provides and oversees many services to the community, such as general information and referral services, transportation, health screening and education, in-home services (such as assisting in household repairs to enable the elderly to live independently in their homes), legal services, meal delivery, nursing home assistance and companion programs.

On the occasion of an open house September 1 sponsored by the Area 4 Agency on Aging of California, I wish to commend this organization on its valuable service to the elderly and the community as a whole.●

#### VOTER INTEREST AND PARTICIPATION ACT OF 1983

**HON. TOM CORCORAN**

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 4, 1983

● Mr. CORCORAN. Mr. Speaker, for nearly 200 years, the American two-party system has functioned well. At the present time, though, it is threatened by changes in law and practice. In order to preserve and shore up our historical two-party system, on May 11 I introduced legislation that would allow the Democratic and Republican parties to return to their former strength in the electoral process. Prompt enactment of this legislation, H.R. 2976, the Voter Interest and Participation Act of 1983, will help the American people have additional confidence that their governmental system is responsive to their needs. By moving on my bill now, Congress can substantially improve the climate for political parties prior to the next election.

Let me review some of the developments that have made this legislation necessary. Our two-party system is almost unique in the world today. In countries with a parliamentary form

of government, there tends to be a large variety of parties competing for office. Canada's four parties, Britain's three parties, and the multiparty system of Western Europe are examples of this. Multiparty systems survive in parliamentary systems because there is generally control of the executive branch by the Parliament. Often, governments rise or fall on coalitions. Frequent votes of confidence occur to insure that such governments remain true to the wishes of the voters.

One-party states exist in a variety of forms, especially in the developing world and Moscow's orbit. They argue that elections, or at least competitive elections, destabilize the government. A kind of corporate responsiveness is credited to such systems by their creators.

I would like to emphasize that there is nothing magical about a two-party system. As I have noted, two-party systems are the exception, rather than the rule in today's world. But the two-party system has served the United States very well until very recently. In the past 10 years, assaults on our two-party system in law and practice have weakened our two great political parties. The result is that the American people have less and less confidence that our political parties can form the basis for governing. These threats to such valuable institutions and symbols of our Republic must be ended. My legislation would effectively improve the ability of the Democratic and Republican Parties to lead our electoral system once again.

What threats have developed to the two parties? First, party organizations at the precinct, congressional district, State, and National levels have been weakened in the name of reform. Both parties lack their former ability to nominate candidates for office having the support of most people from the party in a given geographic area. In place of this, candidates are almost completely free to act on their own. Typically, a candidate for office decides that he will be a candidate, organizes his own campaign, raises his own funds, develops his own strategy, and he, alone, is responsible for all of these things. Candidate selection, campaign organization, fund raising, strategy and responsibility used to have important components from the Democratic and Republican parties. By allowing or encouraging candidates to do everything or almost everything on their own, in the name of election reform, voters are given enormously difficult choices. Instead of using the position of the two political parties as reference points to evaluate candidates, voters must ascertain the gradations of candidates on their own. It is easy to say that people want to vote for "the man and not the party." But the present system weakens the traditional two parties by allowing candidates

to run without the discipline of party organization and assistance.

Again in the name of election reform, political parties have been restricted in the amount of cash and in-kind contributions they can give to candidates. This post-Watergate reform was institutionalized by a Supreme Court case, Buckley against Valeo, and decisions of the Federal Election Commission (FEC). Taxpayer funds make up most of the available moneys for Presidential candidates, once they qualify according to FEC guidelines. But the restriction on the assistance that can be given a candidate by the two national political parties has the result of leaving a good deal of slack to be made up by other organizations: special interest groups and political action committees (PAC's).

Neither special interest groups nor political action committees is bad. But because of their great numbers and influence, the voter is unable to demand the kind of accountability and responsiveness from such groups and committees as they formerly expected from the Republican and Democratic parties. It is even possible that the extreme costliness of congressional elections in the past 10 years has been made worse by the weakening of the two-party system in all phases of the electoral process, especially the funding of elections.

Here the role of incumbency comes into play. Special interest groups and PAC's have a very vital stake in the status quo. Whatever they find in Congress, they to seek in Congress, simply because such an arrangement is more predictable and easier to work with than a wave of new faces or leaderships election after election. By relying on funding of election from PAC's and special interest groups, incumbents in the House and Senate are insulated from the will of the American voter to an unreasonable extent. When combined with the enormous increases in the amount of perquisites available to incumbents which were enacted under the leadership of former Representative Wayne L. Hays, as chairman of the Committee on House Administration during the mid-1970's, the voters have their decisions effectively frustrated by the combination of weakened political parties and a self-serving congressional gravy train. Only by renewing the role of the two political parties can the Congress make sure that responsibility returns to the election process.

The result of the present system is to increase the number of political parties from 2 to 540. Each candidate for Congress becomes effectively a small political party, responsive to nobody except himself or herself. My legislation would reduce the relative importance of special interest groups



and PAC's by simply allowing the two political parties to have no limits on the amounts of in kind and cash assistance they can give to candidates. Because of the reporting requirements of the present law, the voters would have no trouble identifying where a candidate received support. Instead of wading through the goals and purposes of this or that special interest or political action group, the voter would have a much easier time evaluating the philosophical and issue differences between candidates for Congress. My legislation would in no way affect the existing disclosure requirements of political contributions.

My concern is that we correct a real problem, the weakening of the two-party system, rather than trying to restrict the powers of political action committees. It is obvious that PAC's developed in the post-Watergate era when a vacuum was created by the lessened powers of the Democratic and Republican parties to finance congressional elections. The Federal Election Commission's SUNPAC decision merely sought to balance the power of pro-labor special interests who had traditionally assisted in the funding of congressional elections by allowing corporate employees to form PAC's. Both pro-labor and probusiness political action committees have increased their influence on congressional election financing since SUNPAC, but they did not cause SUNPAC. Had the law allowed the Republican and Democratic parties to maintain their traditional funding roles, moneys raised by special interest groups and political action committees would automatically be controlled to a large extent.

To restrict political action committees without restoring the two-party system to vitality leaves only one option for the funding of congressional elections. The taxpayer would be saddled with such funding if neither political parties nor political action committees could manage the funding under the law. Obviously, taxpayer financing of congressional elections would be a logical extension of the incumbency protection measures instigated by former Congressman Hays. It would also encourage a proliferation of candidates within primaries, who would be propped up long after the voters lost interest by a tidal wave of taxpayer funds. Furthermore, nonaffiliated candidates would be encouraged to run with the backing of taxpayer funds in direct competition to candidates of the traditional two-party system, thereby further weakening the competitive position of them.

My legislation, in restoring the traditional role of the two traditional parties, would restore among voters the opportunity to evaluate and hold responsible candidates for Congress from the Democratic or Republican

parties. It would tend to reduce the relative role of special interests and political action committees by allowing the bulk of congressional funding to be handled by the two parties. It would discourage taxpayer funding of elections, and the additional burden on the Federal budget, by allowing private financing through the vehicle of the traditional parties. It would diminish the chances of successful nonparty affiliated candidates as well as prevent incumbent protection which would be the natural result of taxpayer funding of congressional elections. Moreover, my legislation would restore to health a system that has worked well for nearly 200 years rather than building a Rube Goldberg system in which the voter has every right to lack confidence.

Mr. Speaker, I urge the support by our colleagues of the Voter Interest and Participation Act of 1983, H.R. 2976. ●

#### EXPLANATION FOR MISSED VOTE

**HON. BENJAMIN A. GILMAN**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 4, 1983

● Mr. GILMAN. Mr. Speaker, I was unable to cast my vote on rollcall No. 299, which sought to close portions of the Department of Defense authorizations conference report (S. 675). Had I been present on August 1, 1983, I would have voted "aye." ●

#### AMERICA'S PROGRESS TOWARD CIVIL RIGHTS REFORM

**HON. JERRY M. PATTERSON**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 4, 1983

● Mr. PATTERSON. Mr. Speaker, on Tuesday, the House voted overwhelmingly to honor the birthday of Martin Luther King. Were Dr. King here today to witness our consideration of H.R. 2230, I wonder if he would be encouraged by our progress over the past two decades in civil rights reform.

Today, when we vote on this bill to reauthorize and extend the authority of the Civil Rights Commission, I hope all of my colleagues will consider the amendment to be offered by the gentleman from California (Mr. EDWARDS). This is a compromise amendment to try to depoliticize this very important Commission.

Mr. Speaker, I urge the Members to oppose all amendments to weaken the Edwards compromise and to vote to extend the life of the Civil Rights Commission for the next 5 years. It is very important, and we owe that to

our country and to Dr. King's memory.

If we look back, there is much to consider about how this legislation will affect the future direction of civil rights in the United States. When the Commission was formed in 1957, prejudice and segregation were commonplace in our society: in education, in employment, in housing, and in our minds. Not a single portion of our society was spared the markings of racial injustice. In parts of the country, drinking fountains bore the signs of discrimination. Even our institutions perpetuated prejudicial attitudes, until, by the courage of some rare and courageous individuals, we were made to recognize our folly as human beings.

In 1955, when Ms. Rosa Parks, a black seamstress in Montgomery, Ala., refused to move "to the back of the bus," she was jailed. The poignance of her act, and others like hers, touched off one of the most significant revolutions in American history. Prior to the civil rights revolution, racial prejudice and social injustice were the accepted norm. Civil rights were forcefully denied, and fear kept many from challenging the power of fiat. Today, while the signs of blatant discrimination might not be as openly displayed, the subtle signs of a not-so-glorious past persist.

Just yesterday, the fairness of voting practices in the primary election of a southern State (Mississippi), were brought into the question. Were it not for the Civil Rights Commission, a fair and independent assessment of voting practices throughout our Nation would not have been made. Without the Civil Rights Commission, the Voting Rights Act would not be on the books today.

The independent, comprehensive studies and recommendations of the Civil Rights Commission have had a tremendous influence on policymaking. To mire debate about the structure of the Commission in controversy, or to make Commission members submissive to any President, whim to fire without cause, would result in the unconscionable demise of the Commission.

The debate here today must not focus on the dismal record of the Reagan administration with respect to civil rights. Rather, it must focus on the long-term integrity of the Commission. The authorization for the Commission is due to expire on September 30, but its work is far from complete. Yet somehow, there are Members of this body and of the Senate who would seek to entangle the appointments process in debate over whether to reauthorize the Commission at all. This is not the time to impose a structure on the composition of the Commission, nor is it the time

to permit the President to fire "at whim" those Commissioners who would not agree with his policies. Neither this administration, nor any future administration, should be permitted to tamper with the work of the Commission. It must remain the objective voice of our diverse citizenry, untainted by political controversy, supportive of civil rights reform, and strengthened by fairness.

August 28 will mark the 20th anniversary of the orderly assembly of over a quarter of a million people in front of the Lincoln Memorial. In the midst of this peaceful pilgrimage for civil rights, Dr. Martin Luther King spoke out. He spoke of a dream which resounds for us today. He spoke of his four children that they would "one day live in a nation where they will not be judged by the color of their skin but by the content of their character."

Dr. King's dream was once considered fantastic. Today, with pride, we can boast that in many ways it has become reality. The Civil Rights Commission has greatly affected this change. It has forced us to look at our society, examine our institutions, and reform our laws. It must remain the independent appraiser of equal protection under law for Dr. King's children and for generations to come. Let us preserve the effectiveness of the Civil Rights Commission through passage of the Edwards amendment.●

**HOUSE CONCURRENT RESOLUTION 154—CONCURRENT RESOLUTION TO COMMEND DR. ALICE RIVLIN**

**HON. STEPHEN J. SOLARZ**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 4, 1983

● Mr. SOLARZ. Mr. Speaker, I rise to pay a much deserved tribute to Dr. Alice Rivlin upon her retirement as Director of the Congressional Budget Office.

As a member of the Budget Committee, it has been my pleasure to work closely with Alice Rivlin for the last 5 years. I have been consistently impressed by the high standards of professionalism and nonpartisanship she brought to CBO and by her readiness to respond frankly to questions even when her answers were unpopular.

Alice is the only Director that CBO has ever had. She built, from scratch, an organization which has become an indispensable part of Congress. In addition to its timely and objective forecasts, its examinations of Federal fiscal priorities, and its options for reducing the deficit, CBO has sent to Congress welcome analyses of pressing issues. We simply could not do without CBO.

I will miss having Alice Rivlin at the helm of CBO. She leaves us, however, knowing that she has well served the Congress and the American people. The esteem in which CBO is held is her monument.

I would like to thank Alice Rivlin for her wise counsel during her tenure at CBO and to wish her well in her endeavors at the Brookings Institution. I am glad that she will remain close by because I am sure that, as we proceed to address the severe economic problems facing the Nation, we will need her wisdom and insight.

I wish her the very best of luck in the next chapter of her distinguished career.●

**A TRIBUTE TO KURT WEISHAUP**

**HON. GARY L. ACKERMAN**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 4, 1983

● Mr. ACKERMAN. Mr. Speaker, once upon a time, in a land far away, in a lifetime almost forgotten, the world had gone mad. Persecution, violence, upheaval, torture, destruction, death—it was a nightmare beyond what language can describe. That tempestuous period of history, however, drove Kurt Weishaupt and his lovely bride Trude to the shores of America.

He came here, not with his hands open, but with his arms outstretched. He came here, not bitter, as he had every right to be, and not morbid, as one might have expected. His world was destroyed, but he came here with hopes, and dreams, and aspirations. He came here with a yearning to live in peace, untouched by prejudice, and with a desire to build a strong, loving family.

And that he did, Mr. Speaker. He built on his hopes and his dreams, and he built a family whose love for one another knows no bounds, and whose desire to help their fellow human beings seems endless.

Recently, Kurt Weishaupt turned 70. Yet he shows no sign of slowing down, no slacking of his determination to help others less fortunate than himself. He remembers what the world was like when he was young, and he works to insure that the world will never again be so cruel.

That is why Kurt is chairman of the board of the Gift of Life program. Even in our modern age, with all our technological advances, there are many terribly sick children all over the world who are not getting the high-quality medical attention they so desperately need. Kurt and Trude, and those who work with them, give these children the Gift of Life, placing them in American hospitals where they can be properly treated, and raising funds

to cover the costs of the expensive care they require. Kurt has been to Korea, for example, twice in the past 3 years, arranging treatment for over 100 sick Korean children.

The Gift of Life program is only one outlet for the energies of this great American philanthropist. Within his hometown of Flushing, he is vice president of the Boys' Club, which over the years has provided constructive recreational activities for thousands of local underprivileged youngsters. He is on the board of directors of the Flushing YMCA, and he is a new board member of Bowne House, the historic landmark in Queens which was the birthplace of freedom of religion in America. Just recently Kurt concluded a term as president of the Rotary Club of Flushing, and he serves on the board of trustees of Queens' Booth Memorial Medical Center, a busy, urban hospital which has often benefited from his philanthropic interest.

Kurt has long been involved with stamp collecting, as both a vocation and an avocation. He is vice president of the International Stamp Dealers Association and a past president of the American Stamp Dealers Association. What is a hobby for others, however, is just another way to contribute for him. He is a founding member of Philatelic Hobbies for the Wounded. Since 1948, he has been chairman of the March of Dimes stamp and coin division, and since 1952, he has been co-chairman of the United Jewish Appeal stamp and coin division.

Mr. Speaker, one can only imagine the awe and joy with which Trude and Kurt must have first stepped upon this great land of ours, how grateful they must have left. The irony, however, is that it is America, although unknown at the time, that should have been grateful; for Kurt and Trude, who came from far away, with nothing but their self respect, had actually adopted us.

They have reinforced the values upon which this great Nation was built; they have retaught us the real meaning of humanity, of brotherhood, and of decency. The nightmare and the tragedy that drove them from a world so far away on a journey filled with fear and trepidation ended on the day that Kurt and Trude breathed free air. At the time, Mr. Speaker, that day meant little to anyone except the Weishaupts. We know now that, though unheralded at that time, it was indeed a truly great day for the United States of America.

Kurt and Trude Weishaupt are the absolute embodiment of the American way, the American dream. They serve as an inspiration to all of us, each and every day, teaching us what humanitarianism is all about. Surely, hundreds of Americans, myself included,



as well as countless others all over this globe, have found their lives enriched simply by knowing Kurt and Trude Weishaupt.

Mr. Speaker, I know that you and all of our colleagues in the Congress of the United States will join me in wishing happy birthday to this great American, to this great humanitarian, and in wishing him and his lovely wife many, many, many more years of productivity, satisfaction, love, and joy. ●

#### AUGUST 21: A DAY CZECHOSLOVAKIA WILL REMEMBER

**HON. WILLIAM O. LIPINSKI**

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 4, 1983

● Mr. LIPINSKI. Mr. Speaker, August 21 is an important day for Czechoslovakian people all over the world. On this day in 1968, the armed forces of the Soviet Union invaded the defenseless nation of Czechoslovakia and stamped out the Czechoslovakian people's movement toward freedom. Fifteen years later, we commemorate that fateful day, and take note that the freedoms which we today enjoy in the United States must constantly be defended.

The invasion by Soviet and Eastern European troops was swift and decisive. Over 650,000 troops swept across the Czechoslovakian land and seized key state, party, and legislative officials. Reform leaders were taken to Moscow for interrogation. Martial law was declared. There was some passive resistance, such as the clandestine radio stations that broadcast all over the country, but the Czechoslovakian epithets were no match for the Soviet tanks. Czechoslovakia's brief encounter with the basic freedoms that are enjoyed in the West was quickly and violently ended.

What we commemorate on August 21 is not only the subjugation of one people by another, but the basic struggle for rights and freedoms that goes on daily around the world. Hungary in the 1950's, Czechoslovakia in 1968, and Poland in 1980 have all demonstrated that totalitarian governments can be installed in a country, but the desire of the people for freedom and justice cannot be eliminated.

It is no accident that the Soviet Union must rule Eastern Europe with an iron fist. The drive for freedom and dignity that resides within the people of the Eastern bloc is strong and cannot be eliminated. This determination is reflected in numerous events of the past 30 years. The various uprisings against the Communists, the passive resistance displayed by the Czechs in 1968 and Poland's continuing labor struggle are all vivid demonstrations of the will for freedom in Eastern Europe.

Today, 15 years after the Soviet invasion of Czechoslovakia, the Czech people enjoy no more freedom than they did in the 1960's, and the Soviet presence is just as pervasive. As Americans and proud citizens of the greatest democracy on Earth, it is up to us to provide a beacon of freedom for oppressed people to look toward, and an example of liberty and justice for all the world to admire. While democracy is certainly safe in our land, it is not necessarily permanent. As Thomas Jefferson said, "Eternal vigilance is the price we pay for liberty." We in this country have been blessed with a government and a people that make it possible for us to enjoy the freedoms of which our Czechoslovakian brothers can only dream. To help the oppressed people of Eastern Europe, and around the world, we should set an example of freedom and justice that everyone can follow.

It is a tribute to the strength and determination of the Czechoslovakian people that they could move toward freedom in 1968 in spite of the specter of Soviet domination. I congratulate the Denni Hlasatel newspaper and its editor, Joseph Kucera, for memorializing this anniversary and reminding us of one people's struggle for freedom. Commemoration of the August 21, 1968, invasion of Czechoslovakia reaffirms both our support for the Czechoslovakian people, and our dedication to making freedom and dignity a reality for people around the world. ●

#### PERSONAL EXPLANATION

**HON. TOM CORCORAN**

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 4, 1983

● Mr. CORCORAN. Mr. Speaker, I was unable to be present for the roll-call vote on the Levin amendment to H.R. 2780, State and Local Fiscal Assistance Act Amendments of 1983, which occurred on Tuesday, August 2.

Had I been present, I would have voted "no." ●

#### SHRINE TO ST. THOMAS MORE

**HON. BILL ARCHER**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 4, 1983

● Mr. ARCHER. Mr. Speaker, last month marked the commemoration of the anniversary of the death of St. Thomas More, the patron saint of lawyers and all government workers, who was led to the executioner's ax and martyrdom in London on July 6, 1535.

Sir Thomas More, during his long career in law and political life, was a Member of Parliament and was elected Speaker of the House of Commons; he

also held the high office of Lord Chancellor of England and several lesser diplomatic and judicial posts. He was always a deeply religious and holy man, as evidenced by his beatification in 1886 and canonization in 1935. But in his lifetime, Thomas More was also a preeminent English and European scholar, author, lawyer, theologian, humanist, diplomat, philosopher, politician, and counsel to the King. Throughout his public and political life, moreover, he maintained constantly a devoted and active personal interest in his large family and household. In this, I believe he set an unique and enduring example for us all.

Many in Congress will be pleased to learn that we now have nearby on Capitol Hill a new statue and small shrine to St. Thomas More, located just inside St. Joseph's Church at Second and C Streets NE. The necessary renovation work to enable the statue to be displayed was completed through the generous support of the Thomas More Society of America and with the special efforts of my good friend, Rev. Msgr. John J. Murphy, S.T.L., pastor of St. Joseph's Church on Capitol Hill.

On June 22, 1983, the feast day of St. Thomas More, Monsignor Murphy celebrated a special noontime Mass in honor of Thomas More and dedicated the statue. He was assisted in the liturgy by the Rev. Robert J. Petrella, pastor of the Church of St. Thomas More in southeast Washington, by the Rev. Ladislav Orsy, S.J., of Catholic University, and by Rev. Michael J. Murray, associate pastor of St. Joseph's. The Rev. Msgr. John A. O'Connell, rector of the Cathedral of St. Thomas More in Arlington, Va., was the homilist.

On the prie-dieu or kneeler placed before the More statue in St. Joseph's, for the benefit of those with a special devotion to this saint, is a prayer composed by Hon. Howard T. Markey, chief judge of the U.S. Court of Appeals for the Federal Circuit and the founder of the Thomas More Society. It is adapted from a prayer originally written for lawyers, and reads as follows:

St. Thomas More, be our advocate and counsel before the Divine tribunal that alone is without error.

Bespeak for us the wisdom to apply the precepts of God's eternal law to the problems of our daily lives.

Intercede for us that we may emulate the sense of humor which made your heart echo with the mirth of heaven.

Pray that we may spurn false oaths and live as You did, faithful to our faith, even though by doing so we may be called upon to sacrifice our all as You sacrificed yours.

These things seek for us through the merits of Jesus Christ, Our Lord. Amen. ●

## DON'T PLAY "BLAME THE SCHOOLS"

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 4, 1983

● Mr. BROWN of California. Mr. Speaker, our educational system needs reform. We recognize the need for higher standards, stricter discipline, and more clearly defined goals. However, few people accept that in order to achieve meaningful, lasting reform, we must also reform the societal perception of education. Society must recognize the fundamental role of education.

Education is the foundation of society. Our educational system has given us a largely literate society. Our national preeminence in technology is largely due to the training researchers received in this educational system. Our schools provide the citizenship education vital to a representative democracy. Attempts at educational reform should recognize the basic need for education, and the myriad roles and types of training schools perform. Thomas Jefferson understood the importance of education to society: "A civilization which expects to be both ignorant and free expects that which never was and never will be."

Educational reform must also recognize that schools are strongly affected by societal changes. Through major societal changes and events of the past decades—the baby boom, technological revolutions, wars, a "drug culture," rising divorce rates, and the breakdown of the traditional family—schools persevered with amazing resiliency and continuity. Yet we see the effects of these changes in the schoolroom in lack of discipline, short attention spans, and immature children facing adult problems.

Ben Harris, a professor of educational administration at the University of Texas at Austin, wrote about these issues. Mr. Harris asks us not to play

games with educational reform. He recognizes schools' strengths, and asks society's support in shaping reasonable solutions. I particularly call to your attention his recommendation that providing in-service education for teachers would produce better results than merit pay. I commend this article to my colleagues.

The article follows:

[From the Christian Science Monitor, Aug. 2, 1983]

## DON'T PLAY "BLAME THE SCHOOLS"

(By Ben M. Harris)

American schools have many problems. They reflect the problems of the larger society and long decades of public neglect. But critics of many stripes seem bent upon some "quick fix" and generally fail to either diagnose or prescribe with thoughtful logic. At least three realities seem largely ignored or misrepresented by much of the current media treatment of the public education scene in this nation:

1. The public schools have many very serious problems, but they have demonstrated enormous strengths as well. Schools have accommodated to "baby booms," teacher shortages, and deteriorating facilities with stability and continuity of service to all. They have adapted their programs to accommodate slow learners, handicapped, emotionally disturbed, and a constantly changing set of social values.

In recent years, a new record was set in holding power—75 percent of all secondary-age youth were actually in school for the first time in America's history. Illiteracy has been so completely eradicated among students that new and more demanding standards called "adult competence" or "life skills" have replaced the literacy measures used throughout most of the world to reflect national progress.

2. The teachers of America's schools number approximately 2.5 million—the largest group of college graduates in any one occupational endeavor. They determine, in a large measure, what the unique contribution of the school will be to student progress, but they don't do it alone. Responsibility for the quality of education is heavily shared by parents and the larger community.

Even so, the persistent teacher shortage of the past 30 years has left its scars. The shortages were never seriously addressed by our people or our politicians. School officials were forced, decade after decade, to

accept virtually all applicants with minimum qualifications. Few teachers have had anything approximating the amount or quality of professional training offered to virtually every other profession.

These failures to recruit, select, or adequately train have been compounded by the persistent refusal of boards, legislatures, and the Congress to fund in-service training programs in the face of obvious needs.

Our Johnny-come-lately critics seem utterly unaware that the youthful teaching force of the nation (average age in mid-30s) is ready and willing to upgrade its practices through retraining, in-service education, and human resource development programs. Instead these critics offer warmed-over, long discredited "merit pay" plans that would not produce needed results in any case.

3. The schools are "at risk" from persistent scapegoating and public neglect. A bit of reflection is required to recall the Rudolf Flesch mania for phonics in the 1940s, the new math panacea in the 1950s, the TV curriculum projects bypassing the classroom teacher in the '60s, and the back to basics with minimum competency testing of the 1970s. Each is an example of doomed-to-failure efforts at "school reform," foisted upon school officials by vested interest groups and unknowing, self-appointed critics. The 1980s are off to another decade of capricious, ill-conceived, politically motivated meddling in the affairs of our schools.

The parents of the nation should be aroused. Their children have become pawns in an incessant game called "blame the school." The right of each child to a curriculum that suits his or her individual needs is being abridged. The rights and responsibilities of parents to work closely with teachers and local school officials to provide an education that is supportive of family life and consistent with their aspirations for their children are being frustrated. Finally, the wisdom and technical expertise of 150,000 school administrators and supervisors and hundreds of thousands of fine experienced teachers is being literally wasted.

A new era has come upon the land and sown chaos in our schools. We cannot return to the past, but we can reaffirm the rights of students, parents, teachers, and school officials to shape locally and personally the education of each learner. We need cheerleaders, an enthusiastic crowd of supporters, a few responsible officials, some water boys, too! But too many coaches interfering with players' efforts is a sure way to lose the game. ●